SIZE STANDARDS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON SBA AND SBIC AUTHORITY, MINORITY ENTERPRISE AND GENERAL SMALL BUSINESS PROBLEMS

OF THE

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SIZE STANDARDS

THURSDAY, OCTOBER 20, 1983

House of Representatives, Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems, Committee on Small Business,

Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2359-A, Rayburn House Office Building, Hon. Parren J. Mitchell (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN MITCHELL

Mr. Mitchell. Today we begin hearings on the Small Business Administration's proposed size standards published in the Federal Register on May 6, 1983.

Section 2(a) of the Small Business Act states, and I quote:

> It is declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as possible, the interests of small business concerns in order to preserve free competitive enterprise . . . and to maintain and strengthen the overall economy of the Nation.

In order to implement this policy, the Congress has enacted legislation authorizing programs for the exclusive benefit of small business concerns.

As defined by the Small Business Act, a small business concern is one which is not dominant in its field of operation. Under the law, other criteria bearing on size, including the number of employees and the dollar volume of business, may be established by the Administrator of the Small Business Administration.

The crucial impact of established size standards on the level of small business participation in SBA and in Federal set-aside programs makes it imperative that equitable procedures for defining size standards be established.

It is the purpose of this hearing to insure the equity of the procedure used by SBA in defining size standards and to insure that no standards are adopted which will thwart the congressional intent of the various small business programs.

Throughout this hearing, which we will continue on Wednesday of next week, let us be mindful of the statutory mandate of section 2(a) of the Small Business Act, which states that when "number of employees" is used as a criterion such employee standards "shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors." In other words, it is SBA's responsibility to determine size standards which, in turn, define those firms that are eligible to participate in SBA and other Federal contracting opportunities.

These standards will critically affect all SBA procurement programs, including the prime contracts program, the certificate of competency program, labor surplus area set-aside program, and the 8(a) program. However, according to SBA, the proposed rule will have a marginal effect on small business SBA loan programs.

Certain industries have been identified as presenting unique size standards considerations. We will look at these. They include the dredging industry, in which it is alleged that small firms lack the necessary equipment and general capacity to compete for most dredging contracts. In the oil wholesale industry, it is alleged that the extraordinary and unpredictable inflation in the cost of product makes gross sales figures totally unreliable as an indicator of the size of a company. Other such industries identified as requiring unique considerations include the architectural and engineering services—I have been talking with the architects all this week and last week—and the tobacco industry.

This hearing will address these unique considerations.

Our witnesses include representatives of small business trade organizations, business concerns of all sizes, and various Government agencies and departments.

I want to first make an announcement. Unfortunately, the House is in session. The House of Representatives went into session at 10 o'clock this morning.

From time to time we will be interrupted by votes. The only thing that I can do is to simply recess the hearing while I go make a vote. I expect other members of the committee to join us. If we possibly can, we will try to platoon our voting. One will go over and vote and another will stay and then another group will go vote. Unfortunately, we did not know that we would be meeting at 10 a.m. this morning.

I certainly want to thank all of our witnesses for being here, and donating their time to participate in this hearing.

Our leadoff witness was to have been James Sanders, and he was to have been accompanied by Mr. Canellas. Will Mr. Sanders be here this morning?

Mr. **Canellas**. As I understand it, Mr. Chairman, he is planning on being here this morning. I am afraid he is simply a little late.

Mr. **Mitchell**. Are you prepared to give his statement?

Mr. **Canellas**. I would prefer for the Administrator to give it. I have not been told otherwise.

Mr. **Mitchell**. All right.

Is Mr. Birkhofer here?

Mr. **Birkhofer**. Yes, sir.

Mr. **Mitchell**. Mr. Birkhofer. Then you be our leadoff witness, please.

Mr. William J. Birkhofer, director of government affairs, the American Consulting Engineers Council.

TESTIMONY OF WILLIAM J. BIRKHOFER, DIRECTOR, GOVERNMENT AFFAIRS, AMERICAN CONSULTING ENGINEERS COUNCIL

Mr. **Birkhofer**. Thank you, Mr. Chairman.

It is a pleasure for me to be here this morning to address the problem of the standards development as it affects the architect-engineer industry.

Let me first ask you for permission, Mr. Chairman, to include my full statement in the record, in the interest of your time and the committee's time, to abbreviate my remarks and simply try to address the principal questions which you want to focus on in these hearings.

Mr. **Mitchell**. That will be most helpful and without objection, your entire statement is submitted for the record.

Mr. **Birkhofer**. Thank you, Mr. Chairman.

Mr. Chairman, the American Consulting Engineers Council is the only society in Washington that represents primarily the business interest of consulting engineering firms. It is because of those business interests that we have focused over the last 2 to 3 years on the problems associated with size standards for our industry.

To provide some perspective, we have some 4,000 member firms, currently some 97 percent of whom fall under the present size standard of $7.5 million in fee. Under SBA's proposed size standard of $3.5 million, some 94 percent of our membership would still be classed as small; therein lies the problem.

We believe that in the size standards development process, SBA has tried to wrestle constructively with a very, very difficult challenge. Nonetheless, we do not feel that they have yet developed an accurate picture of the architect-engineer sector. Firm size, business volume, nature of practice, level of competition, and method of procurement have not been considered adequately, we feel, in the development of the new proposed size standard.

Such data sources as Consulting Engineer magazine, the Engineering News Record, other trade publications, and the membership data and profiles of our council, the American Institute of Architects, Professional Services Management Association, and other groups have not been considered. As a result, SBA's size standard fails to reflect a true profile of our industry and the individual practitioner within that industry.

SBA has attempted over three rulemakings to deal with several contradictory objectives. We submit that it is just about impossible to come up with a single size standard for our industry that addresses each of those objectives.

In the first rulemaking, SBA indicated that it was most interested in assisting emerging firms. In the second rulemaking, it was noted that SBA size standards should be devised to enhance existing small business.

In the second rulemaking, and in the third rulemaking as well SBA heavily emphasized the importance of size standards in protecting the interests of the procuring agencies.

In all rulemakings it was indicated that there should be a single size standard for each industry. As we have said, we just don't believe that is possible.

As a practical matter, the impact of the small business size standard for architects and engineers, which triggers the availability of many forms of SBA assistance, has been to adversely affect all of the size segments in our industry and this committee has undoubtedly heard from many large firms. But we are particularly concerned here today about the impact on the truly small and small disadvantaged businesses. In our industry, the truly small and small disadvantaged businesses can be best characterized as those practices of engineering and related services of approximately 25 persons and under in size.

Such firms depend not only on prime contracts as emerging firms in the marketplace—prime contracts from the Federal Government, that is, but they also depend to a large extent on subcontracts with larger firms for purposes of gaining valuable insight and experience in quality assurance, design and project management, construction cost control, and the variety of other activities required of a viable professional practice in our industry.

The present size standard and, in fact, the proposed size standard, coupled with current policies within the DOD, what we know to be the emerging policy in the Federal Acquisition Regulation relating to set-asides for small business and certain provisions of H.R. 2133, a bill currently under consideration by this committee, will as a practical matter, impair, not aid, the ability of truly small A-E firms to obtain Federal contracts.

As a practical matter, we believe that SBA's size standards development give more weight and favor to the needs of Federal procurement agencies than to truly small and small disadvantaged architect-engineer firms.

Our conclusion, Mr. Chairman, is that both the present and proposed size standards are detrimental to truly small and small disadvantaged businesses in our industry. We would almost be better off with no size standard as compared to what we have now or what has been proposed.

There are other alternatives and probably the most logical of those is to devise a size standard that more truly reflects the character of our industry. In order to do that, to be specific, the size standard would have to be further adjusted.

We in the association representation business are in a very difficult position because we are very concerned about developing a set of recommendations that impacts negatively on any one segment of our membership. For that reason, we cannot expressly endorse a single best size standard.

But, Mr. Chairman, perhaps at this point through your question we can further elaborate on the character of our membership, the character of our industry, and come a little closer to focusing on the kind of size standard that might be truly more representative, particularly in the interest of affecting those small and small disadvantaged businesses in a positive fashion.

This concludes my remarks, Mr. Chairman, and I would be pleased to respond to your questions.

[Mr. Birkhofer's prepared statement follows:]

PREPARED STATEMENT OF WILLIAM J. BIRKHOFER, DIRECTOR, GOVERNMENT AFFAIRS, AMERICAN CONSULTING ENGINEERS COUNCIL

Mr. Chairman, it is our pleasure to be with you today to share the views of the American Consulting Engineers Council (ACEC) on the procedures by which proposed size standards for the architect-engineer profession have been developed by the Small Business Administration (SBA), and the likely impact of its current proposed rulemaking on small, mid-sized, and large firms within our industry.

ACEC POSITION

As you may be aware from discussions with staff or SBA representatives, the American Consulting Engineers Council, in conjunction with the five other professional technical societies represented in the Committee on Federal Procurement of Architectural-Engineering Services (COFPAES), has taken the position that size standards should be eliminated as being inconsistent with established A-E selection procedures which considers size of firm and project as a part of a "selection based on qualifications" process.

BACKGROUND

ACEC is a federation of 51 state and regional member organizations comprised of nearly 4,000 member firms ranging from one and two-person practices to multi-offices, multi-disciplinary firms with 2,000 or more employees. A majority of our firms are involved in providing design services to federal agencies.

Our 1983 ACEC membership profile graphically illustrates the composition of ACEC's membership, and the impact of current and proposed SBA size standards.

Based on this profile, the median firm size is in the range of 4 to 7 persons and the average size firm consists of some 30 persons. Median and average ACEC member firm sizes have held relatively constant over the past several years. The "1977 Census of Service Industries" issued in May, 1980, by the Commerce Department depicts firm size and related data for engineering, architectural and surveying practitioners. Assuming that firms with under $50,000 in receipts are likely not full-time practitioners, this still leaves a universe of over 25,000 firms with an average firm size of just over 14 employees, and average billings per firm of approximately $551,000, or roughly $39,000 per employee. In that architectural practices tend to be somewhat smaller than those of consulting engineers, we believe this government-developed data compares favorably with our own membership profile.

Further corroboration is provided in survey data developed by the leading trade publication, Consulting Engineer, which in its "1982 Census of Firms" found that "small" firms (of 1 to 25 employees in size) made up 11,020 (or 83 percent) of the 13,355 firms surveyed.

Based on this background, it appears that current available government trade association and trade publication data suggest a typical architect-engineer practice as one ranging in average size from 15 to 30 employees.

And yet, the architect-engineer community is currently governed by a size standard of $7.5 million, which equates to a firm of some 118 professional and subprofessional employees, and SBA's proposed size standard of $3.5 million equates to a firm of 55 professional and related technical employees.

As a result, the smallest and largest of our firms are dissatisfied that the size standard cannot be lowered yet further; and mid-sized ACEC firms soon to become "large" under SBA's proposal perceive a potential loss of benefits. These perspectives are illustrated by the range of comments received by SBA on its proposed rulemaking. Of 69 comments received by SBA from architect-engineer firms, 46 sought a size standard of less than the proposed $3.5 million; 8 thought the size standard ought to be $3.5 million; and 10 felt that the current size standard should be retained.

With this background, we offer the following specific comments relative to the SBA methodology for size standards development, and the impact of its proposals on our industry.

SBA'S SIZE STANDARDS DEVELOPMENT

In reviewing the SBA notices of proposed rulemaking of March 10, 1983; May 3, 1983; and May 6, 1983, we find significant inconsistencies in the expressed philosophy of size standards.

In the March 20, 1980 notice, in which the degree of "competition" using the economist's definition is employed as a benchmark for size standards, and A-E size standard of 50 employees was proposed, persumably based on the notion that the A-E profession exhibits ". . . an intense level of competiton low, so as to support entry and moderate growth. . . ." Also significant is the statement that ". . . small business concerns should not become dependent on continuing assistance from the 'cradle to the grave' but should plan for the day on which they can survive without such assistance."

In the second advance notice of proposed rulemaking of May 3, 1982, we found that the earlier emphasis on "competition" which in SBA's view had ". . . resulted in eligibility for many firms in the medium-size range . . ." had given way to a proposed focus of SBA assistance ". . . heavily on smaller firms, thus focusing SBA's limited resources on those firms with the greatest needs." Also significant was the new emphasis ". . . given to the procurement sensitive industries to reflect the large number of public comments received as well as the special needs of federal agencies involved in small business set-asides."

Interestingly, the size standard proposed for architect-engineers was 150 employees.

In the May 6, 1983 notice, SBA apparently attempted to accommodate both "public comment" and ". . . the Government's procuring agencies, especially the Department of Defense."

The proposed size standard for architecture, engineering and surveying services was split into four categories:

(1) Engineering Services, Except for Military and Aerospace Equipment and Except for Military Weapons (from $7.5 million to $3.5 million);

(2) Engineering Services for Military and Aerospace Equipment and for Military Weapons (Except Marine Engineering) (from $7.5 million to $13.5 million);

(3) Marine Engineering and Naval Architecture (from $9.0 million to $11.0 million); and

(4) Architectural Services (Except Naval) and Surveying Services (from $2.0 million to $3.5 million).

This checkered history of attempts to develop size standards, which has intensely frustrated the small, mid-sized and large size segments in the A-E community, illustrates several deficiencies in SBA's approach:

1. SBA, despite the many data references cited in the rulemaking notices, has been unsuccessful in developing an accurate picture of the character of the architect-engineer practitioner. None of the size standards proposed bear any resemblance to the character of the industry sector in terms of firm size, business volume or nature and intensity of competition and other related factors.

2. SBA has established too many contradicting objectives to be served in the size standards development process. Alternatively, the stated purpose for size standards is to provide a basis to assist emerging firms, enhance existing small business, and protect the interest of the procuring agencies, and it is simply not possible to devise a single size standard to accomplish all these objectives.

3. Apart from the routine invitation to submit public comments, SBA has neither made special effort to independently analyze or survey the architect-engineer industry sector, nor has it availed itself of highly detailed data on firm size, form of business, nature of practice, market share, numbers of new firms and related issues readily available from trade associations, professional societies and the media.

IMPACT AND EQUITY OF SBA'S CURRENT A-E SIZE STANDARDS PROPOSAL

In the consulting engineering profession, the "growth" segment is any firm having from 1 to 25 employees. In the period 1980–82 alone, one authoritative trade source, "Consulting Engineer" magazine noted the entry of some 2,600 new consulting engineer firms in that size range into the marketplace. Assuming that an architect-engineer firm needs the assistance of procurement preference to facilitate its entry into the marketplace (and that assumption is indeed debatable), the "threshold" for the preference program, i.e. the size standard, should be tailored to that entry-level size standard.

At its present level, the size standard "threshold" operates effectively as a vehicle for maintaining the market power of midsize architect-engineer firms. SBA's proposed "General Engineering Services, Except for Military and Aerospace Equipment and Except for Military Weapons" of $3.5 million does little to change the present situation.

As noted above, median size of ACEC member firms is between 4 and 7 employees with average firm size about 30 employees. Using the most current average billings-per-employee figure of $63,399 (as developed by Engineering News Record in May, 1983, as representing current billings per individual professional or subprofessional in a diversified architect-engineering firm), 96 percent of ACEC member firms qualify as small businesses under the current $7.5 million size standard. Under the proposed revision of $3.5 million, 93.4 percent of ACEC member firms will qualify as small businesses. This equates to less than 150 member firms being newly excluded from the current size standard—hardly a significant change, except to those mid-sized firms who will now be abruptly thrust into the "large business" segment and largely "frozen out" of the federal procurement process along with some 130 other ACEC large-firm members.

In our view, the inadequacy of both the present and proposed size standards provide further justification for considering elimination of size standards in the A-E profession.

ACEC takes exception to SBA's contention in the present rulemaking that an economic cost analysis is not applicable in the case of size standards. The promulgation of the $3.5 million industry size standard for A-E's could, and does, have far-reaching negative implications on agency determinations of the need to assess the economic impact of federal regulations on small businesses.

Assume, for example, that a typical architect-engineer firm could sustain an economic impact equivalent to 10 to 15 percent of gross annual billings and still remain in business. Fifteen percent of gross annual billings of a "small" firm under the proposed A-E $3.5 million size standard would equate to a $525,000 economic impact "threshold".

However, using "real world" average annual billings of less than $300,000[1] for some 98 percent of the A-E industry in fiscal year 1982 an economic impact threshold of $30,000 to $40,000 would be more appropriate. The proposed $3.5 million size standard for the A-E industry thus skews the economic impact "threshold" twelvefold, significant increase in business failures.

While ACEC recognizes that the use of SBA size standards for regulatory purposes is optional under the Regulatory Flexibility Act (Section 601(3)), it is only reasonable to assume that agencies would, in almost every instance, refer to SBA size standards as reflective of an industry size.

The ability of individual agencies to establish their own small business "threshold" notwithstanding, it is difficult to conceive that the implementation of the proposed size standards which are "* * * used not only by SBA size determinations, but also by private firms and other agencies for procurement, *regulatory* (emphasis added), and assistance purposes * * * " will have "* * * no adverse impact on any industry as a whole or on the economy". ACEC believes that SBA is incorrect in determining that "in the event that other Federal agencies decide to use SBA's size the Census Bureau to be $17.2 billion. Total billings for the standards for regulatory purposes, any economic costs involved would be due to that agency's regulations themselves, not the size standard * * * " when the proposed rulemaking itself states that "* * * the Regulatory Flexibility Act indicates that other agencies should generally follow the SBA size standards in regulations."

This contradiction is but one more example of size standards being utilized as a political "football", passed between the Congress, the SBA and procuring agencies with no clear path of accountability of responsibility.

SUMMARY

It may well be that there are industries, and we believe the A-E profession is one, in which size standards are not necessary, given the high levels of competition, lack of concentration and application of unique procurement procedures prescribed in Public Law 92-582 (known colloquially as the Brooks Law after its author, Rep. Jack Brooks), in which size and scope of firm and project are evaluated in a "selection based on qualification process". Yet the businesses within the industry may be inherently "small" when compared with other industries and should be entitled to regulatory and other non-financial advantages accuring to "small businesses". We recommend that Congress grant SBA authority to exempt certain industries from the size standards process by declaring them inherently "small" and that such industries, as a class, be granted regulatory exemptions, access to SBA advisory assistance and other non-procurement, non-financial aid.

While SBA's subdivision of engineering services within SIC 8911 relating to "General Engineering Services, Except for Military and Aerospace Equipment and Except for Military Weapons," is in the best interest of architect-engineer firms for the following reasons:

1. Fully 40 percent of ACEC member firms employ seven or fewer employees while the proposed size standard encompasses 93 percent of the A-E industry. ACEC does not believe that the proposed size standards can or will function to assist truly small business, but it will continue to frustrate A-E firms in all size segments, small, mid-size, and large, particulary in light of restrictive procurement policies contained in the Defense Acquisition Regulation (DAR) and the new Federal Acquisition Regulation (FAR).

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[1] Total billings for the A-E industry in fiscal year 1982 were estimated by the Census Bureau to be $17.2 billion. Total billings for the 500 largest A-E firms in 1982 were $8.5 billion. This equates to an average of $298,508 in total billings for the remainder of the A-E industry firms.

2. The proposed size standard of $3.5 million may negatively impact the entire A-E industry if used by federal agencies in determining that a regulation or proposed regulation may economically impact on an industry sector, since the proposed size standard will elevate the economic impact threshold beyond the level which most small architect-engineer firms could reasonably sustain.

ACEC's views should be considered to represent the best interest of majority and minority firms of all sizes in our membership. Over the years, we have worked actively to develop sound public policy to aid new, small and disadvantaged businesses. ACEC took the lead in development of administrative procedures to implement the Brooks Law A-E selection process; we were the only A-E society to participate in the 1980 White House Conference on Small Business; last year we adopted a new position statement favoring increased utilization of minority- and women-owned businesses; and we currently developing an MBE/WBE certification guide. We will work equally hard to protect the interest of our mid-sized and larger members.

Interestingly enough, this problem affects our entire membership, and we have come to believe that the matter can only be resolved in the legislative arena.

With this in mind, Mr. Chairman, we again thank you for this opportunity to comment, and for your willingness to provide some much-needed investigation and oversight which we hope we can serve as a first step to legislative change in SBA's statutory mandate in this area.

We would be pleased to respond to any questions you may have.

Mr. MITCHELL. Thank you.

I do need to raise some questions to get a better picture for myself and for the hearing record.

There is one figure that says the average 5- to 10-man firm probably grosses about a half million dollars a year. You gave another average of about 25 employees in a small firm.

Do you have any idea what the average gross would be?

Mr. BIRKHOFER. Let me elaborate Mr. Chairman, by suggesting that current trade industry statistics set some useful benchmarks. One such benchmark is billings per employee for all employees in an A-E practice. The second is billings per professional and subprofessional employees.

We find currently that about $50,000 in billings per employee across the board is a good current measure of performance, and approximately $64,000 per professional and subprofessional employee is an equally good measure. Those numbers are derived from trade industry statistics developed by the Professional Services Management Association and McGraw-Hill's Engineering News-Record magazine, respectively.

Mr. MITCHELL. OK. Then one of the thrusts of your argument in your testimony this morning is that if you raise the size standard to $3.5 million, you will really force these smaller firms to compete with the big boys in the field; is that correct?

Mr. BIRKHOFER. That is correct. Essentially the way the size standards process works now, the protection or benefit of the size standards, particularly as it translates into procurement preference programs, really flows to those firms that are well established in the marketplace. By comparison, a firm of 150 persons in our industry to which the current A-E size standard equates, may be nominally small industrywide but in fact it is a medium to large-size firm in our professional community.

Such firms have considerable depth of staff and considerable financial resources and equipment resources, that smaller emerging firms simply cannot match when thrust into direct competition.

Mr. MITCHELL. In other words, there is really no basis on which to assume that these smaller firms could really compete?

Mr. **Birkhofer**. That is correct, unless you are talking about very narrowly focused, highly specialized areas where there is a differential advantage to that small firm. But generally, for the firms that are trying to compete in the normal process of submitting on Commerce Business Daily solicitations for architect-engineer contracts, it is very, very difficult for small firms to compete, given the structure of the current size standard.

Mr. **Mitchell**. Would you elucidate on your suggestion that maybe you establish subcategories in this field in terms of size standards, what kind of categories?

Mr. **Birkhofer**. Well, again, harkening back to SBA's earlier rulemaking, they have established a couple of purposes for size standards, one of which would be to help the emerging firm. The second would be to help the firm that is currently established in the marketplace but might also be considered to be small.

Those are two important characteristics in our industry and perhaps the only way that one can address that situation is to come up with a tiered size standard, or to otherwise set some parameter on the size standards process such that by way of time or income level, a firm might well graduate out of the size standards category over some period of time.

Mr. **Mitchell**. All right.

Now, pursuing that just a little bit more, what do you think would be an equitable size standard for an emerging firm?

Mr. **Birkhofer**. In the emerging firm area, again, going to the trade industry statistics, the best information that we have is that such firms are in the 1 to 25-employee category. Generally speaking, it would be our view that emerging firm size standards probably could not be much more than $1 million to $1½ million in gross revenues.

Mr. **Mitchell**. OK, that's gross.

Now, the firm that is already in business, is established but is still very, very small in comparison with other firms. What might be an equitable size standard for that type of business?

Mr. **Birkhofer**. Well, again, the size standard perhaps would not travel too much further upward from that number that I just gave you—remembering that the nature of the architect-engineer practice is that many firms choose to remain small and highly specialized so that their principal owners can practice engineering rather than serve as administrators or managers are small by design.

Size standards for such a form would probably be in the neighborhood of a $2 million in gross revenue.

Mr. **Mitchell**. OK.

I don't think I have any other questions.

Mr. **Birkhofer**. Mr. Chairman, if I could add one other point on the matter of the size standards and their purpose.

Mr. **Mitchell**. Sure.

Mr. **Birkhofer**. We have quite a number of firms that are concerned about protections that they feel they enjoy as small businesses now under the Paperwork Production Act and the Regulatory Flexibility Act. They are very concerned that they not lose those kinds of protections when they move out of the small business category and into the large business arena. So that procurement preference is not the only consideration here.

On the other hand, we know of very few of our member firms that have ever sought an SBA loan or other kind of financial assistance so that does not seem to be a governing factor in this whole size standards controversy, at least within the A-E profession.

Mr. **Mitchell**. Yes. I just attended a meeting of some architects and I was amazed that few, if any of them, attempt to pursue contracts through SBA. They spelled out rather vociferously their reasons why they don't do that. So I have firsthand knowledge that is not really the key issue here.

On the regulations, did your organization submit recommendations to SBA?

Mr. **Birkhofer**. Yes; Mr. Chairman. We addressed this issue in the context of our size standards comments, to the effect that the threshold or the trigger for regulatory impact in the Regulatory Flexibility Act, given the average size of an A–E practice, would be such that most firms would have to fail in business before they would enjoy the protection of that act.

Mr. **Mitchell**. Thank you.

I am glad that my colleague Mr. Daub is here. I am certain that you have an opening statement you want to make, and I don't know whether you got here in time to raise questions or not.

Mr. **Daub**. Mr. Chairman, I thank you very much for the opportunity. I would make an opening statement after this witness finishes, perhaps. Because I did review briefly the testimony, have some familiarity with the area, let me ask several questions that have been prepared by staff who have more thoroughly had a chance to consider your written testimony so that I would do that just to get some information on the record that I am advised is not perhaps on the record as fully as it might otherwise have been.

Accept my apology, please, Mr. Chairman, and if you would, too, Mr. Birkhofer, for being late. I did make the vote on the journal. I understand that in my case, with so few years here and so few votes since I have come, each one that you miss counts regardless of its substance.

Mr. Birkhofer, you noted in your statement, as I understand it, there are unique characteristics of the architect-engineer industry that may preclude you from applying for any size standards. What do you mean by that?

Mr. **Birkhofer**. Congressman, in our industry we find a well-documented pattern of rather intense competition for Federal contracts over the years. By that I mean that in terms of the competition for procurement, the competition is indeed very keen with somewhere upward of 50 to 100 responses to every solicitation that appears in the Commerce Business Daily.

From another perspective, the number of firms entering the marketplace, new A–E firms, again points to a highly competitive environment. In 1980 to 1982 alone, Consulting Engineer magazine noted that some 2,600 new firms emerging in that marketplace.

So, our industry, in an view would be classed as a highly competitive one. By SBA's own admission, the size standards process, as it affects a competitive firm, may have very little benefit to offer.

The final point that I would make is, the means for procurement in our industry, the Brooks law, named after its author, Congressman Jack Brooks, is such that it sets up a selection on the basis of a qualification process.

That process, among other things, attempts to equate the size and capability of an individual architect-engineer firm and the size and scope of the work to be performed. In this process, architect-engineer professionals representing the Government's interests come together with A-E practitioners.

The Government architect-engineer professional is interested in obtaining the services of a firm that is properly sized to accomplish the services required. Contracting with a large firm to do a fairly small and routine job doesn't suit the Government's interest, nor does retaining a small A-E for a large, highly sophisticated project.

So, the Brooks law process tends to iron out these differences. Over the 11 years the Brooks law has been in existence, the majority of A-E contract awards have properly accounted for the size and capability of A-E firms, and that A-E's of all sizes have had full and fair opportunities to compete for assignments for which they are best suited.

Mr. **Daub**. Can you tell me how representative the ACEC membership of architects and engineers is in an industry sense—bigs, middles, littles?

Mr. **Birkhofer**. In a general sense, we cover the spectrum. We have nearly 4,000 members and they range in size from 2- or 3-person practitioners to firms such as Leo Daly and Henningson, Durham, Richardson, in your own area of Nebraska, who have from several hundred to over 1,000 employees. They similarly incompass all engineering disciplines, single-discipline geotechnical firms, to firms including civil, structural, electrical, mechanical, and other disciplines with a single organization.

So, we feel that our membership is representative of the A-E community. Interestingly enough, taking a look at sizes of members within our membership at ACEC, we find great similarity between ourselves and what the trade industry reports for the industry as a whole.

Mr. **Daub**. I think that in your answer to my first question you really talked a little bit about the practical problems that your industry faces. If you have anything else to elaborate relative to the current standards versus proposed changes and how that might create additional on-the-street working practical problems, I would appreciate that.

Mr. **Birkhofer**. There are always problems when over a period of time one size element or one size segment in your membership doesn't feel like their interests are very well served by public policy.

As I mentioned earlier to Chairman Mitchell, we don't see any evidence that the proposed size standard is going to reach down and help the truly small businesses. The practical impact of the proposed size standard is it is going to shove some 50 to 100 midsize firms over into the large business threshold which creates a fair amount of dislocation for those firms, I might add, and yet doesn't do anything to address the other problem—the targeting of SBA assistance to truly small and small disadvantaged firms with ACEC's membership.

Mr. **Daub**. I have no further questions and I appreciate the obviously thorough preparation and your being here to share with us today.

Mr. **Birkhofer**. Thank you.

Mr. **Mitchell**. I, too, want to thank you again. Actually we learn through this process and you are the experts.

Mr. **Birkhofer**. Mr. Chairman, I might say that your friend and our member, George Evans, wanted very much to be here today. I talked to him yesterday on the phone and he sends his regrets. I do believe he is planning to send you a statement of his views.

Mr. **Mitchell**. Yes; that will be excellent. In fact, a number of firms have submitted statements to us even though they are not witnesses, and we are most appreciative of them.

Mr. **Birkhofer**. Good. Thank you, Mr. Chairman.

Mr. **Mitchell**. Thank you very much, Mr. Daub.

OPENING STATEMENT OF HON. HAL DAUB, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. **Daub**. Mr. Chairman, thank you very much.

I do personally, of course, want to commend you for holding these hearings. I look forward to hearing from our witnesses this morning and to getting their views on the Small Business Administration's proposed size standards.

The definition of small business impacts greatly on the economy of our country today, especially in the procurement area. I feel very strongly that it is essential that the agency adopt realistic and equitable standards and am hopeful that these hearings will enlighten the members of our Small Business Committee.

That is the extent of my formal opening comments. I would like at this time to ask your permission, on behalf of Congressman Boehlert, that a statement from one of his constituents, the Stetson-Dale Co. from Utica, N.Y., be included in the record.

Mr. **Mitchell**. Without objection, that statement will be included.

[Stetson-Dale's prepared statement follows:]

Stetson-Dale,
Utica, N.Y., September 16, 1983.

Hon. Sherwood L. Boehlert,
Congress of the United States,
Longworth House Office Building, Washington, D.C.

Dear Sherry: I'm enclosing a copy of a letter which we have just received from the General Services Administration, Region 2, in New York. The project for which we were competing involved architectural and engineering services on various Upstate Federal buildings including the Post Office and Customs House in Utica.

As indicated by GSA's letter, we have been excluded from this work on the basis of our size. Since an architect-engineering firm is a small business when its average annual receipts do not exceed $7,500,000, we are qualified as a small business. Since the work includes both architecture and engineering, it appears that the determination in this case is inappropriate.

Applying the $2,000,000 limitation to this particular contract effectively precludes the Government's obtaining services from a firm having any depth in total in-house architectural and engineering capabilities. While we recognize the objectives of the small business set-aside, the elimination of qualified small business concerns such as Stetson-Dale through arbitrarily setting unrealistic size standards is certainly not in the best interest of the Government.

This letter is not a criticism of the GSA Office in New York since they are subject to regulations and determinations emanating from Washington. This particular incident, however, emphasizes the need for an in-depth study of the procurement regulations with regard to small business set-aside where architecture and engineering services are involved.

While it appears that inappropriate guidelines were assigned to this work in Upstate New York, we are not protesting the action taken by GSA. We are, however requesting your intercession at the Washington level to resolve inequities of this nature with the Federal Procurement Regulations so that the Government can buy services from well-qualified architects and engineers who are, in fact, small business organizations.

Very truly yours,

JOHN B. STETSON,
Principal.

GENERAL SERVICES ADMINISTRATION, REGION 2,
New York, N.Y., September 7, 1983.

Subject: Design and engineering services (combination) on an as need basis for a term of one year under a firm fixed price, indefinite delivery contract for projects located in New York State except counties of: Dutchess, Rockland, Westchester, Bronx, Manhattan, Kings, Queens, Richmond, Nassau and Suffolk. Solicitation No. 2PPC-CM-83-529.

Stetson-Dale Architects and Engineers,
Utica, N.Y.

GENTLEMEN: This serves to acknowledge your Standard Form 254 and 255 dated August 31, 1983.

Please be advised that your submission of the SF 254 and 255 is ineligible. The Commerce Business Daily Announcement indicated "See Note 13". Note 13 is defined as follows: "This proposed procurement is under a 100 per cent small business set aside, the size standard for which is a concern including its affiliates, having average annual sales or receipts for its preceding three fiscal years not in excess of $2,000,000."

For your convenience, a copy of the CBD Synopsis is provided. We are therefore, returning herewith your SF 254 and 255.

We wish to thank you for your interest and effort in responding to our Commerce Business Daily Announcement for the subject and encourage your continued participation in GSA's Architect-Engineering program.

Sincerely,

CHERYL F. WRIGHT,
Chief, D&C Contracts Branch,
Real Property Contracts Division, Public Buildings and Real Property.

by the Department of Defense to the firm, with the object of effecting equitable distribution of contracts among qualified A-E firms including minority-owned firms and firms that have not had prior Department of Defense contracts. (5) Professional qualifications of the staff to be assigned to this project. A-E firms which meet the requirements described in this announcement are invited to submit SF 254, unless already on file, and SF 255 to the above address. Indicate in Block 5 of SF 255 that your firm meets the size standard defined in note 79. Also indicate prior names your firm has used in the last three years, the parent company, branch offices, affiliates, associations, and subsidiaries. It is requested that interested firms list all DOD awards received during the last eighteen months in Block 9 of SF 255. Firms having a current SF 254, and those submitting SF 255 and received by this office on or before 19 Aug 83 or 14 cal days, after the date of appearance of this announcement in the CBD, whichever is later, will be considered. See notes 62 & 79. This is not a RFP For further info contact Mr W S [illegible], 415/877-7641.

● R -- **ENGINEERING SERVICES FOR TITLE II INSPECTION AND SURVEILLANCE SERVICES** for the construction of unaccompanied enlisted personnel housing at Naval Submarine Base, Bangor WA. Contract N62474-83-C-3103. Firm fixed price. Engineering services are required to provide Title II inspection and surveillance services for the construction of two new 3-story unaccompanied enlisted personnel housing buildings, addition of a baggage storage area to existing building, and the addition of a new 3-story wing to the existing Marine Barracks Facility at Naval Submarine Base, Bangor WA. The est start date, Dec 83. The est completion date, Nov 84. The est construction cost of this project is between $2,500,000 and $5,000,000. A-E selection criteria will include (in order of importance): (1) Recent specialized experience of the firm in Title II inspection and surveillance of multi housing units, building construction and other related projects; (2) Location of the firm in the general geographical area of the project; (3) Professional qualifications of the staff to be assigned to this project; (4) Volume of work previously awarded by the Department of Defense to the firm, with the object of effecting equitable distribution of contracts among qualified A-E firms including minority-owned firms and firms that have not had prior Department of Defense contracts; (5) Past experience, if any, of the firm with respect to performance on Department of Defense contracts; (6) Ability of the firm to accomplish the contemplated work within a reasonable time limit. A-E firms which meet the requirements described in this announcement are invited to submit SF 254, unless already on file, and SF 255 to the above address. Indicate in Block 5 of SF 255 that your firm meets the size standard defined in note 79. Also indicate prior names your firm has used in the past three years, the parent company, branch offices, affiliates, associations, and subsidiaries. It is requested that interested firms list all DOD awards received during the last eighteen months in Block 9 of SF 255. Firms having a current SF 254, and those submitting SF 255 and received by this office on or before 19 Aug 83 or 14 cal days, after the date of appearance of this announcement in the CBD, whichever is later, will be considered. See notes 62 & 79. This is not a RFP. For further info contact Mr W S [illegible], 415/877-7641. (220)

Savannah District, Corps of Engineers, Attn: AECO, PO Box 889, Savannah, GA 31402, 912/944-5405

● R -- **DESIGN THE INSTALLATION OF AIR-CONDITIONING SYSTEM** for 113 family housing units (103 at Fort McPherson and 10 at Fort Gillem, GA). A DX system with electrical upgrade will be required for each family housing unit. The replacement of the existing heating system will be accomplished in conjunction with the new air-conditioning units. Final design will include development of all plans, specs, dwgs, and estimates required for construction. Est construction cost is $300,000 to $500,000. Initial screening of firms will be based upon the professional qualifications necessary for satisfactory performance of the services required. Significant evaluation factors, in the order of relative importance to the government, are specialized experience in the type work required; capacity to accomplish the work in the required time; past experience with respect to performance on DOD contracts; location in the geographical area of the project; and volume of work previously awarded to the firm by the DOD. This will be a lump sum contract, and it is anticipated work will begin in Sep 83 and be completed in Apr 84. Responses including submission of SF 255 must be received at the address shown above before 29 Aug 83, in order to be considered for selection. Firms desiring consideration shall submit appropriate data as described in note 62. This is not a RFP. See notes 62, 65 & 79. For tech info contact F Rankin at 912/944-5405.

R -- **DESIGN OF OPERATION AND MAINTENANCE PROJECTS** at Fort Jackson, SC. Required discipline is civil. Final design will include development of all plans, specs, dwgs, and estimates required for construction. Initial screening of firms will be based upon the professional qualifications necessary for satisfactory performance of the services required. Significant evaluation factors, in the order of relative importance to the government, are specialized experience in the type work required; capacity to accomplish the work in the required time; past experience with respect to performance on DOD contracts; location in the geographical area of the project; and volume of work previously awarded to the firm by the DOD. This will be an indefinite delivery type contract, and it is anticipated work will begin in Oct 83 and be completed in Oct 84. Responses including submission of SF 255 must be received at the address shown above before 26 Aug 83, in order to be considered for selection. Firms desiring consideration shall submit appropriate data as described in note 62. This is not a RFP. See notes 62 & 65. For tech info contact Mr W C Lawson at 912/944-5405. (220)

G R Kent, Contracting Officer, USDA-Forest Service, PO Box 1628, Juneau, AK 99802, 907/586-7400

● R -- **DESIGN AND DEVELOPMENT OF CONSTRUCTION DRAWINGS AND SPECIFICATIONS** to be used by the Forest Service to contract for the construction of the Cleveland Peninsula Work Center to be located in Port Stewart near Ketchikan in Southeastern Alaska. The Work Center will provide seasonal housing, maintenance/shop and administrative facilities for the Forest Service land management activities on Cleveland Peninsula. The horizontal design will include but is not limited to site development, roads, building site development, dock and boat ramp, and total utility and fuel storage systems. Estimated start of work date 19 Sep 83. A-E work to be completed within 240-cal days after effective date of notice to proceed. Also, see final paragraph of this series. In reply refer to Synopsis 30 or otherwise identify that it is relative to the A/E Cleveland Peninsula Work Center.

● R -- **DESIGN AND DEVELOPMENT OF CONSTRUCTION DRAWINGS AND SPECIFICATIONS** to be used by the Forest Service to contract for the construction of two marine facilities, one at Petersburg and one at Wrangell, both small communities of southeast Alaska. Required work includes site survey, subsurface investigation, evaluation of existing floats and pile supported warehouse, design of pile supported dock access, and design of a small boat marina which will include open and covered moorage for 11 small boats and a small warehouse. Estimated start of work date 19 Sep 83. A-E work to be completed within 245-cal days after effective date of notice to proceed. In reply refer to synopsis or otherwise identify that it is relative to the A/E Petersburg, Wrangell Marine Facilities. Also, see last paragraph of this series.

● R -- **DESIGN AND DEVELOPMENT OF CONSTRUCTION DRAWINGS AND SPECIFICATIONS TO BE USED TO CONTRACT FOR THE CONSTRUCTION OF THE [illegible] PASS WORK CENTER** to be located on Prince of Wales Island in Southeast Alaska near Ketchikan. The work Center will provide year round housing, storage, and administrative facilities for Forest Service and management activities on North Prince of Wales Island. The horizontal design will include but is not limited to site development, roads, bldgs sites, dock, boat ramp, and total utility and fuel storage systems. Estimated start of work date 19 Sep 83. A-E work to be completed within 240-cal days after effectiveness date of notice to proceed. In reply, refer to Synopsis 31 or by title.

Relative importance of significant evaluation factors: 10 percent-proximity to the job site and familiarity with the area in which the project is located; 40 percent-capacity of the firm to perform the work (including any specialized services) within the time limitations; 10 percent-past record of performance on contracts with government agencies and private industry with respect to such factors as control of costs, quality of work, ability to meet schedules, etc; 40 percent-specialized experience and technical competence of the firm (including a joint venture or association) with the type of service required. To equitably distribute contracts among qualified A/E firms, points will be deducted from firms on the basis of: Two points for each incompleted Forest Service contract they currently hold; two points for each Forest Service contract for which they are currently top contender for award; and/or two points for each Forest Service contract on which they have been prime contractor within the past 3 years. Response to this notice must be received by 3:30 pm local time 6 Sep 83. Firms desiring consideration should submit appropriate data as described in note 63. This is not a RFP (220)

Chief Supply Service VA Medical Center, 1310 24th Ave South, Nashville, TN 37203, Ralph L Truman, 615/327-4214

R -- **PRELIMINARY DRAWINGS, IDENTIFICATION OF CRAFTS INVOLVED AND** preparation of preliminary cost estimate and estimated energy saving (preliminary design only) for following: (1) Convert air handling unit 6 to a return air system including installation of enthalpy change over controls. AHU 6 is a 50 hp 16,300 CFM dual duct system that serves the first floor A and D sections and portion of B section of the medical center. The system has been converted to a variable air volume system by adding a variable frequency motor drive and capping off either the hot or cold duct at each mixing box. VA proposes to supply all mixing boxes using the cold duct only and to use the duct that was formerly used as the hot duct for a return air duct. (2) Convert air handling unit 7 to a return air system including installation of enthalpy change over controls. AHU 7 is a 60 hp, 15,289 CFM dual duct system that serves the 1st floor C and E sections and a portion of B section of the medical center. The system has been converted to a variable air volume system using the same method as AHU 6 above. E propose to convert it to a return air system using the same method used in AHU 6. (3) Installation of adequate ventilation and insulation in the dead air space beneath 2nd floor roof area on the east side of ace bldg. To prevent condensation and resulting water penetration of the 2nd floor roof area. The area affected consists of approx 1,600 sq ft of floor space covered by a 5" thick concrete slab with a brick cap. This area now contains some insulation which has been damaged due to severe condensation problem. (4) Also provide estimate of construction cost and estimate of energy saving to supply make-up water to the domestic hot water heaters located in Room E-5A from the solar collector hot water storage tank located in Room BF-10. Preliminary plans have been developed by the VA. Approx 2,500 sq ft of solar collector panels are located on the roof of the "F" Bldg. Domestic hot water from these plates would be used to supplement the R water supply to the hot water heaters located in Room E-5A. Firms desiring consideration shall submit appropriate data S as described in note 63 by COB 24 Aug 83—This is not a RFP—Area of consideration is limited to state of Tennessee. See note 13. Proj 626-111-83. (220)

GSA, Public Building Service, Design and Construction Contracts Branch-Room 2437, 26 Federal Plaza, New York NY 10278, 212/264-1363

● R -- **DESIGN AND ENGINEERING SERVICES** (combination) on an as needed basis for a term of one year under a firm fixed price, indefinite delivery contract for projects located in New York State except counties of Dutchess, Rockland, Westchester, Bronx, Manhattan, Kings, Queens, Richmond, Nassau and Suffolk. Projects under the proposed term contract will be similar to each other in nature or have a similar distribution of work. Services may include the preparation of construction contract specs and dwgs, and cost estimates involving various design and engineering disciplines, e.g., architectural, structural, civil, mechanical-electrical, site surveys, studies, investigations, site selection inspection. Total cumulative amount of this contract shall not exceed $30,000. Selections will be based upon design ability (35%)—Visual and narrative evidence of teams ability with respect to design solutions for repair and alteration work; project team (20%)—Key personnel's qualifications and relevant experience as individuals and as a team; design management (20%)—Project planning, coordination, scheduling, cost control methods, production facilities, capabilities and techniques; experience (20%)—Past performance on similar projects; special (5%)—Demonstrated knowledge of life cycle cost analysis and energy conservation. Consideration will be limited to firms within New York State except counties of Dutchess, Rockland, Westchester, Bronx, Manhattan, Kings, Queens, Richmond, Nassau and Suffolk. At least one member of any proposed joint venture must have an existing design production office within the geographic limitation. Joint venture or firm/consultant arrangements will be considered and evaluated on a demonstrated interdependency of the members to provide a quality design effort. A SF 254 shall be required for each firm and/or consultant. All offerors must demonstrate capability to perform 80% of all contract services in existing production office within the geographic limitation. A-E firms having capability for the proposed work, in order to be considered, must submit all SF 254 and 255 required by the above paragraph of this announcement NLT Sept 1, 1983. Late submissions shall be considered IAW FPR 1-3. 802-1 and 1-3. 802-2. Submission shall be placed in sealed envelopes and identified and appropriately marked as follows: Sol 2PPC-CM-83-529. Supplemental A-E services New York State except counties of Dutchess, Rockland, Westchester, Bronx, Manhattan, Kings, Queens, Richmond, Nassau and Suffolk. Closing date Sept 1, 1983. For projects with fees over $30,000 (including all options), note 65 applies. See note 13. A list of the selected firms to be interviewed as a result of this announcement will be published in this publication. Note 63 is applicable, except, submission of SF 254 and 255 shall be required. This is not a RFP. Above criteria is not necessarily listed in order of importance. Anticipated projects to be awarded: FB, Utica NY—General alterations. FB, Albany NY—Architectural & mechanical alterations. FB, Syracuse NY—Architectural & mechanical alterations. FB & CT, Rochester NY—Miscellaneous alterations. FB & CT, Buffalo NY—New roof. Total estimated construction cost for above projects $291,700. Also, see last paragraph of this series.

● R -- **DESIGN AND ENGINEERING SERVICES** (combination) on an as needed basis for a term of one year under a firm fixed price, indefinite delivery contract for projects located in New Jersey State. Projects under the proposed term contract will be similar to each other in nature or have a similar distribution of work. Services may include the preparation of construction contract specs and dwgs, and cost estimates involving various design and engineering disciplines, e.g., architectural, structural, civil, mechanical-electrical, site surveys, studies, investigations, site selection inspection. Total cumulative amount of this contract shall not exceed $200,000. Selection will be based upon design ability (35%)—Visual and narrative evidence of teams ability with respect to design solutions for repair and alteration work; project team (20%)—Key personnel's qualifications and relevant experience as individuals and a team; design management (20%)—Project planning, coordination, scheduling, cost control methods, production facilities, capabilities and techniques; experience (20%)—Past production on similar projects; special (5%)—Demonstrated knowledge of life cycle cost analysis and energy conservation. Consideration will be limited to firms within New Jersey State. At least one member of any proposed joint venture must have an existing design production office within the geographic limitation. Joint venture or firm/consultant arrangements will be considered and evaluated on a demonstrated interdependency of the members to provide a quality design effort. A SF 254 shall be required for each firm and/or consultant. All offerors must demonstrate capability to perform 80% of all contract services in existing production office within the geographic limitation. A-E firms having capability for the proposed work, in order to be considered, must submit all SF 254 and 255 required by the above paragraph of this announcement by Sept 1, 1983. Late submissions shall be considered IAW FPR 1-3. 802-1 and 1-3 802-2. Submission shall be placed in sealed envelopes and identified and appropriately marked as follows: Sol 2PPC-CM-83-527. Supplemental A-E services New Jersey State. Closing date Sept 1, 1983. For projects with fees over $30,000 (including all options), see note 65. Also see note 13. A list of the selected firms to be interviewed as a result of this announcement will be published in this publication. Note 63 is applicable, except, submission of SF 254 and 255 shall be required. This is not a RFP. Above criteria is not necessarily listed in order of importance. Anticipated projects to be awarded: FB, 970 Broad St, Newark NJ—Architectural & mechanical alterations. FB & Cthse, Camden NJ—General alterations. FB & Cthse, Trenton NJ—Misc alterations. GSA Depot, Belle Mead NJ—General Alterations. Total est construction cost for above projects $1,585,000. Also, see final paragraph of this series.

● R -- **DESIGN AND ENGINEERING SERVICES (COMBINATION)** on an as needed basis for a term of one year under a firm fixed price, indefinite delivery contract for projects located in Puerto Rico and the Virgin Islands. Projects under the proposed term contract will be similar to each other in nature or have a similar distribution of work. Services may include the preparation of construction contract specs and dwgs, and cost estimates involving various design and engineering disciplines, e.g., architectural, structural, civil, mechanical-electrical, site surveys, studies, investigations, site selection, inspection. Total cumulative amount of this contract NTE $30,000. Selection will be based upon design ability (35%)—Visual and narrative evidence of teams ability with respect to design solutions for repair and alteration work; project team 20%)—Key personnel's qualifications and relevant experience as individuals and as a team; design management (20%)—Project planning, coordination, scheduling, cost control methods, production facilities, capabilities and techniques; experience (20%)—Past performance on similar projects; special (5%)—Demonstrated knowledge of life cycle cost analysis and energy conservation. Consideration will be limited to firms within Puerto Rico and the Virgin Islands. At least one member of any proposed joint venture must have an existing design production office within the geographic limitation. Joint venture or firm/consultant arrangements will be considered and evaluated on a demonstrated interdependency of the members to provide a quality design effort. A SF 254 shall be required for each firm and/or consultant. All offerors must demonstrate capability to perform 80% of all contract services in existing production office within the geographic limitation. A-E firms having capability for the proposed work, in order to be considered, must submit all SF 254 and 255 required by the above paragraph of this announcement by Sept 1, 1983. Late submissions shall be considered IAW FPR 1-3 802-1 and 1-3 802-2. Submission shall be place din sealed envelopes and identified and appropriately marked as follows: Sol 2PPC-CM-83-528. Supplemental A-E services in Puerto Rico and the Virgin Islands. Closing date Sept 1, 1983. For projects with fees over $30,000 (including all options), see note 65. Also, see note 13. A list of the selected firms to be interviewed as a result of this announcement will be published in this publication. Note 63 is applicable, except, submission of SF 254 and 255 shall be required. This is not a RFP. Above criteria is not necessarily listed in order of importance. Anticipated projects to be awarded: FB & Cthse, San Juan Puerto Rico—Architectural & mechanical alterations. FB & Ct Hato Rey, Puerto Rico—Misc alterations. Misc surveys and minor designs. Total est construction cost for above projects $350,000. Also, see last paragraph of this series.

● R -- **DESIGN AND ENGINEERING SERVICES** (combination) on an as needed basis for a term of one year under a firm fixed price, indefinite delivery contract for projects located in New York State counties of Dutchess, Rockland, Westchester, Bronx, Manhattan, Kings, Queens, Richmond, Nassau and Suffolk. Projects under the proposed term contract will be similar to each other in nature or have a similar distribution of work. Services may include the preparation of construction contract specs and dwgs, and cost estimates involving various design and engineering disciplines, eg, architectural, structural, civil, mechanical-electrical, site surveys, studies, investigations, site selection, inspection. Total cumulative amount NTE $200,000. Selection will be based upon design ability (35%)—Visual and narrative evidence of teams ability with respect to design solutions for repair and alteration work; project team (20%)—Key personnel's qualifications and relevant experience as individuals and as a team; design management (20%)—Project planning, coordination, scheduling, cost control methods, production facilities, capabilities and techniques; experience (20%)—Past performance on similar projects; special (5%)—Demonstrated knowledge of life cycle cost analysis and energy conservation.

General Services Administration. To obtain products of requisite quality, certain government specifications call for qualification testing and approval of the products covered thereunder for listing on Qualified Products Lists. In such cases, qualification of specific products is required prior to the opening of bids or the award of negotiated contracts.

This publicizes the intention of the government to require qualification approval of and establish Qualified Products Lists on item covered by the specifications indicated. Suppliers are urged to write appropriate activities responsible for qualification as cited in the specification and to request information in the procedures for qualifying their products.

9. Copies of Military and Federal Specifications and Standards, Qualified Products Lists and Military Handbooks may be obtained from Commanding Officer, Naval Publications and Forms Center (NPFC), 5801 Tabor Ave., Philadelphia, PA 19120. A request can be initiated by telephone (215/697-3321), telegraph, or mail in any form. However, it is preferred that private industry use a simplified order form, DD Form 1425, which includes a self-addressed label. Once a customer orders documents, NPFC will automatically provide the customer with sufficient blank forms to continually order in the preferred manner. Patterns, Drawings, Deviation Lists, Purchase Descriptions, etc. are not stocked at NPFC.

10. Interested firms may request copies of this proposed procurement from Commander, Naval Electronic Systems Command, Code ELEX 2042, Navy Department, Washington, D.C. 20360.

11. In a connection with this proposed procurement information as to whether your concern is considered small or large business is desired. For this item the general definition is to be used to determine whether your firm is either small or large, is as follows:

"A small business concern is a concern that is independently owned and operated is not dominant in the field of operation in which is bidding on Government contracts and with its affiliates, the number of employees does not exceed 500 persons."

State in your response the size status of your concern utilizing the above definition.

13. This proposed procurement is under a 100 per cent small business set aside, the size standard for which is a concern, including its affiliates, having average annual sales or receipts for its preceding three fiscal years not in excess of $2,000,000.

14. This proposed procurement is under a 100 per cent small business set aside, the size standard for which is a concern, including its affiliates, having average annual sales or receipts for its preceding three fiscal years not in excess of $4,000,000.

16. Copies of Military and Federal Specifications, Standards and Qualified Products Lists May Be Examined at the Defense Personnel Support Center, or obtained from Commanding Officer, Naval Publications and Forms Centers, 5801 Tabor Avenue, Philadelphia PA., 19120. Such requests should be made on DD form 1425 (Specifications and Standards Requisition indicating the specification title, number, date and any applicable amendment thereto. Requests may be made by letter if DD Form 1425 is not available or telegram in urgent situations. Telegrams should be addressed to Naval Publications and Forms Center, address above. All other specifications and Patterns, Drawings, Deviation Lists, Purchase Descriptions, Interim Purchase Descriptions and other documents referred to in specification may be obtained upon application to: Defense Personnel Support Center, Directorate of Clothing & Textiles, 2800 South 20th Street, Philadelphia PA., 19101, Attn: DPSC-TTFT or by calling 271-3230, Area Code 215.

17. Sponsored by the Air Force Rocket Propulsion Laboratory, Research and Technology Division, Air Force Systems Command.

18. The proposed procurement is under a 100 per cent small business set aside, the size standard for which a concern including its affiliates having an average annual sale or receipts for its preceding three fiscal years not in excess of $4,500,000.

19. The proposed procurement is under a 100 per cent small business set aside, the size standard for which is a concern including its affiliates, having an average annual sale or receipts for its preceding three fiscal years not in excess of $7,000,000.

20. The proposed procurement is under a 100 per cent small business set aside, the size standard for which is a concern including its affiliates, having an average annual sale or receipts for its preceding three fiscal years not in excess of $1,500,000.

21. Requests for solicitation forms for the procurement of Clothing, Textiles, and Equipment should be sent to the Defense Personnel Support Center, Procurement and Production Division, Directorate of Clothing and Textiles, 2800 South 20th Street, Philadelphia PA 19101. Attn: DPSC-TPP, Procurement Processing Branch.

23. Copies of IFB's and RFP's may be obtained by applying to Bid Room (Code 205.4C) Bldg. 311-4E, Naval Regional Procurement Department, Naval Supply Center, Oakland, California 94625, or by calling Area Code 415/466-[illegible].

24. A request for copies of the proposal should be received by issuing office no later than ten days from the date of listing of this synopsis in the Commerce Business Daily.

Request for Proposal (RFP) availability is limited and will be furnished to the requestor on a first received, first served basis until the supply is exhausted (which could be before the 10 day period has elapsed).

Telephone requests will not be honored.

25. Requests for copies of this solicitation must be postmarked not later than 10 days from the date of publication of this synopsis in the CBD. Requests postmarked later than that date will not be honored. Requests may be made by letter or telegram but telephone requests will no be honored. Availability of the solicitation is limited and will be furnished on a first received, first served basis. Please furnish a self-addressed stamped envelope for the solicitation requested or if a non-availability notice is desired.

26. Complete data not available. Available specifications, plans or drawings relating to the procurement described, do not fully provide all necessary manufacturing and construction detail.

27. It is suggested that small business firms or others interested in subcontracting opportunities in connection with the described procurement, make contact with the firm(s) listed.

29. Requests for copies of this solicitation should be received by Defense Construction Supply Center, Columbus, OH 43215, Attn: DCSC-POAB, not later than 10 days from the date of listing of this synopsis. Such requests may also be made by telephone (AC) 614/236-3446. Availability of the solicitation is limited and will be furnished on a first received, first served basis. If nonavailability notice is desired, furnish self-addressed stamped envelope.

30. If drawings are cited in the solicitation, a written request for same may be submitted to Directorate of Technical Operations Defense Construction Supply Center, Columbus, OH 43215, Attn: DCSC-STR, or by calling 614/236-2344 or 236-2612. Requests should give the solicitation number and the bid opening date. Only drawings referenced in the solicitation will be furnished by DCSC. Copies of unclassified federal, military, and other specifications and standards (excluding commercial) may be obtained upon a written request using DD Forms 1425 to Commanding Officer, U.S. Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia PA 19120, or by Telex 834295, Western Union, 710-670-1685, or telephone (215/697-3321) in case of urgency. Commercial specifications, standards and descriptions are not available from government sources, but must be obtained from the publishers.

31. Responses submitted should be in one copy only. Each response must be identified by the area number (reference) at the top (beginning) of each technical description. Responses should be sent to: Directorate of R&D Procurement, Attn: ASD/PMR-1, Wright-Patterson AFB, OH 45433. Non-technical assistance may be secured by calling 513/255-3825.

32. When requesting bid set(s), provide information as to whether your organization (together with its affiliate) is a large or small business.

33. In accordance with the DOD High Dollar Spare Parts Breakout Program only the firms who are identified during technical screening as either the prime equipment manufacturer or as the actual manufacturer of the part being procured have been solicited. Other offerors proposing to manufacture the part will not be considered for award under this solicitation UNLESS: (1) the offeror submits prior to or concurrent with its proposal evidence of having satisfactorily produced the required part(s) for the government or the prime equipment manufacturer(s); OR (2) the offeror submits prior to or concurrent with his proposal such complete and current engineering data for the part(s) (including manufacturing control drawings, qualification test reports, quality assurance procedures, etc) as may be required for evaluation purposes to determine the acceptability of the part as supplied by your firm for government use.

A dealer offering newly manufactured item must submit concurrent with his proposal a certification specifying that he required part(s) will be obtained from one of the sources who has satisfactorily supplied the same part(s) to the government or the prime equipment manufacturer(s).

An offeror proposing to provide surplus parts manufactured by one of the sources identified during technical screening shall so notify the procuring contracting officer (PCO) at least ten days prior to the opening of bids or proposals. (See Note 36 below). The government will determine on a case-by-case basis, whether or not surplus parts can be considered in view of the criticality of the parts, and impossibility of applying normal in-process inspection and quality assurance procedures to surplus parts. If it is determined that surplus parts can be considered the solicitation will be amended to incorporate inspection criteria adequate to establish that the surplus parts conform to the applicable specifications.

If you desire to be solicited as a potential manufacturer for future procurements of this parts, do not request the solicitation, but contact the procuring activity indicated in the synopsis for further information.

34. An additional approximate equal quantity being reserved for Labor Surplus Area Concerns under a partial determination, the procedures for which are outlined under ASPR 1-804.

35. Award will be made only for products which are qualified for inclusion in the Qualified Products List (QPL) at the time set for openings of bids, or award for negotiated contracts.

36. Concurrent with the notification for the PCO that surplus material is being offered, the offeror will provide the following certificate (If the material being offered is former government surplus, this certificate must be provided in addition to the information required by ASPR 1-1208 Government Surplus.)

The undersigned hereby certifies that the material to be furnished in response to solicitation (insert solicitation number) was manufactured by the original design manufacturer and/or his approved source. (Indicate quantities of each manufacturer). This material is new, unused, meets applicable specifications and is offered without rework or refurbishment of any kind. The undersigned further certifies that no changes have been made to the materials being offered. The quantities of material offered are available for shipment. The material (is/is not) in the original, unbroken container which is dated (show packaging date, if known, or indicate the type and condition of packaging). The offeror (does/does not) have in possession the drawings/specifications applicable to the item(s) offered. (If drawings/specifications) are available indicate the issue letter and date of such drawings/specifications). The offeror (does/does not) agree to release drawings/specifications for Government quality assurance use upon request of the PCO.

37. Procurement is for a kit used in the overhaul or repair of government equipment. Kit consists of both competitive and source-directed items. Source-directed items are so designated to assure requisite interchangeability and reliability. Such parts must be furnished by USAF-approved sources shown herein, or at the discretion of the contracting officer, from a currently USAF approved source not shown, evidence of approval must accompany the offer; otherwise proposed substitute items will not be considered for award. Acceptance under previous awards of substitute items will not be considered to constitute prior approval. If you are interested in furnishing parts source-directed here, in future buys, contact OCAMA/PPPM, Tinker AFB, OK 73145 for specific information on how to be approved as a supplier, furnishing specific FSN and/or part numbers. Complete data (specifications, plans and drawings) for source-directed items are not available. Data for competitive items will be furnished with the solicitation.

39. Short lead time for bidding necessary because of urgency of procurement.

40. This notice does not solicit additional proposals but is issued for the benefit of prospective subcontractors.

41. This notice does not solicit proposals but is issued for the benefit of prospective subcontractors with appropriate security clearance. Make direct contact with above firm(s) for subcontracting opportunities.

42. This proposed procurement is under a 100 per cent small business set aside, the size standard for which is 500 employees.

43. This proposed procurement is under a 100 per cent small business set aside, the size standard for which is 750 employees.

44. This proposed procurement is under a 100 per cent small business set aside the size standard for which is 1,000 employees.

45. This proposed procurement is under a 100 percent small business set aside, the size standard for which is 1,500 employees.

46. Synopsis published for informational purposes only. Solicitation documents are not available.

48. Security clearance will be required of all bidders or offerors.

49. Security clearance will be required of the successful bidder or offeror.

51. The General provisions applicable to this solicitation will be either HEW Forms -313, -314, -315, -3[illegible] SF-32. To conserve paper General Provisions will be mailed with solicitation [illegible]ly if specifically requested. This office maintains a listing of offerors wh[illegible]ve previously been provided copies of the General Provisions, so no duplicate copies will be mailed. The information above applies only to those solicitations issued by the Department of Health, Education & Welfare, OS, Division of Contract and Grant Operations, Room 443H, Humphrey Bldg. 200 Independence Ave. SW, Washington, DC 20201.

52. An additional approximate equal quantity is being reserved for small business under a partial determination, the procedures for which are outlined under ASPR 1-706. The small business size standard for this procurement is 500 employees.

53. The proposed procurement is under a 100 per cent small business set aside, the size standard for which is a concern including its affiliates, having an average amount sales or receipts for the preceding three fiscal years not in excess of $12,000,000.

56. Requests for copies of this proposed procurement should be received not later than 10 days from the date of publication of this notice in order to facilitate mailing of same to the extent copies are available directly to the inquirer at time of issuance. Availability of the solicitation is limited and will be furnished on a first-received first served basis.

57. Requests for copies of this proposed procurement should be received as soon as possible in order to facilitate mailing of same to the extent copies are available, directly to the inquirer at time of issuance.

58. Bid sets may be obtained by applying the Naval Regional Procurement Office, Bldg. 200, 4th Floor, Washington Navy Yard, Washington, DC 20374.

59. Interested firms may request copies of the proposed procurement from Commander, Naval Sea Systems Command, Code 0215, Washington, D.C. 20362, or by phone to AC 202/692-7508.

60. Request for unpriced technical proposals pursuant to Two-Step Formal Advertising procedures in Sect. II, Part 5 of the ASPR or Part 1-2, Subpart 5 of the FPR. Under Step One, offerors are to submit only one technical proposal (unless multiple proposals are authorized by the request for technical proposal in sufficient detail to enable engineering personnel to make a thorough evaluation and arrive at a sound determination as to whether or not the proposed product meets the requirements of the Government. Price or cost estimates are not to be included in the first step invitation for bids (Step 2) will be issued at a later date to those firms whose technical proposals are determined to be acceptable.

61. Requests for solicitation forms should be sent to Director Procurement Directorate, US Army Armament Research and Development Command, Dover, NJ 07801, in sufficient time to be received not later than 10 days from date of publication of this notice. Requests will be furnished on a first received, first served basis until supply is exhausted. If nonavailability notice is requested, furnish self-addressed stamped envelope.

62. Architect-engineer firms which meet the requirements described in this announcement are invited to submit: (1) a Standard Form 254, Architect-Engineer and Related Services Questionnaire, (2) a Standard Form 255, Architect-Engineer and Related Services Questionnaire for Specific Project, when requested, and (3) any requested supplemental data to the procurement office shown. Firms having a current Standard Form 254 on file with the procurement office are not required to resubmit this form. Firms responding to this announcement before the closing date will be considered for selection, subject to any limitations indicated with respect to size and geographic location of firm, specialized technical expertise or other requirements as listed. Following an initial evaluation of the qualification and performance data submitted, three or more firms considered to be the most highly qualified to provide the services required will be chosen for interview.

The Department of Defense policy for selection of architect-engineer firms is not based upon competitive bidding procedures, but rather upon the professional qualifications necessary to the satisfactory performance of the professional services required, subject to the following additional considerations: (1) specialized experience of the firm in the type of work required; (2) capacity of the firm to accomplish the work in the required time; (3) past experience, if any, of the firm with respect to performance on Department of Defense contracts; (4) location of the firm in the general geographical area of the project, provided that there is an appropriate number of qualified firms therein for consideration; and (5) volume of work previously awarded to the firm by the Department of Defense, with the object of effecting an equitable distribution of contracts among qualified architect-engineer firms including minority-owned

Mr. **Mitchell**. I again will just mention for those of you who are just getting here that we are in session. It is permissible for us to conduct a hearing while we are considering legislation on the floor but from time to time, as we have votes, we must take a recess to go vote; I said maybe we can platoon.

Mr. **Daub**. We might be able to do that, happy to.

Mr. **Mitchell**. Mr. Sanders is now with us. He is Administrator for the Small Business Administration. Is Mr. Canellas with you?

Mr. **Sanders**. Yes, he was up here earlier.

Mr. **Mitchell**. Thank you very much for taking your time to be here. Also, thank you for submitting your statement in its entirety so promptly to us so that we did have sufficient opportunity to review it and study it.

TESTIMONY OF JAMES C. SANDERS, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION; ACCOMPANIED BY ANDREW CANELLAS, DIRECTOR, OFFICE OF SIZE STANDARDS

Mr. **Sanders**. It is always a pleasure to have that compliment from you, Mr. Chairman. We always aim to please but sometimes don't get there.

I would like to read my statement, if I may. I want to thank you for the invitation to appear and thank you for holding this hearing before your subcommittee today to discuss the Small Business Administration's size standards. Appearing with me is Andrew Canellas, Director of SBA's size standards staff.

A small business is defined in section 3(a) of the Small Business Act as "one which is independently owned and operated and which is not dominant in its field of operation."

One of the responsibilities of the Small Business Administration is to make a detailed definition of a small business, based upon this and other statutory guidance.

The act further states that SBA may use the number of employees and dollar volume of business along with other criteria in arriving at a detailed definition.

Size standards are especially important for SBA's loan program and for the procurement programs of many Federal agencies.

Under the loan program, a firm must not exceed the size standard of the industry associated with its principal product line. By contrast, the size standard for the procurement program is the one identified with the industry of the primary goods or services being produced.

The proposed rule of May 6, 1983, is the culmination of a long effort to adjust size standards.

In testimony before this committee on March 1, 1978, a previous SBA Administrator stated that SBA would comprehensively review all of the existing size standards and make necessary changes. This was a reflection of widespread concern that the standards were often inconsistent and should be adjusted for inflation.

The agency review began with guidelines in the Small Business Act which stipulates that competition and industry differences are important criteria.

To update its analyses, the SBA obtained statistical tabulations from Federal and private resources, and carefully reviewed the industry structure.

The first advance notice, which was published March 10, 1980, focused mainly on the industrial structure and the degree of competitiveness within each industry. It ranged from 15 employees to 2,500 employees. All dollar-based size standards were restated in terms of numbers of employees in an effort to set size standards that would be inflation resistant. In addition, the industry standard would apply to all programs.

Because of the broad interest in the issue, SBA extended its initial 60-day comment period and held public hearings in each of the 10 agency regions. Overall, SBA received over 1,500 comments from participants of the public hearings and from written comments. Almost 75 percent of the respondents were against some part of the proposal.

Respondents suggested that the agency should focus less on the competitive aspects of industries in formulating size standards.

Public Law 96-481 delayed further implementation of this activity pending transition of administrations in 1981.

The agency believed that the strong response to the proposed changes justified a reevaluation of its approach. Ideally, the process of establishing size standards should not only have a technical base but also should consider the needs of the Federal procuring agencies and the private sector.

The second advance notice of May 3, 1982, differed from its predecessor in three important ways.

First, the range of size standards was narrowed to a range of 25 employees to 500 employees. This reflected a widespread view that 15 employees was too low a cutoff while 2,500 employees was too high.

Second, SBA proposed a 500-employee ceiling, focusing attention on smaller firms.

Third, SBA responded to sentiments within many procurement-sensitive industries that the proposed size standards in some cases were too low to accommodate the average procurement currently being performed by small business.

Therefore, SBA proposed higher size standards in a number of key procurement-sensitive industries, while maintaining the 500-employee cap.

In the second advance notice, SBA placed emphasis on encouraging smaller firms to take advantage of this opportunity. SBA received over 500 comments to its second notice from the public and affected Government agencies. Of these comments 72 percent were negative.

The May 6, 1983, proposed rule places greater weight on the needs of the private sector and the Federal agency requirements. The key features of this proposal are:

(1) Existing procurement size standards are the base for uniform agency size standards.

(2) Size standards which are expressed in terms of total receipts would be increased for inflation. Most industries had not been increased since 1975, thus providing an adjustment of 81 percent.

This adjustment would provide parity for 1975 for firms with dollar receipt standards.

(3) Size standards for manufacturing would generally remain the same. After a long study of this issue, SBA interpreted the adverse comments to the first two advance notices as support for a policy decision not to disrupt the programs through widespread revisions in size standards. While a few standards would be lower, most would be higher than the present size standards.

The proposed rule is a fine-tuning of current standards which has the basic support of both the private sector and the Federal agencies that use the basic size standards to achieve their set-aside procurement goals. Any change evokes uncertainty as to the impact of a new environment on individuals and their businesses. However, our proposal accounts for past inflation and accommodates specific problems in industries involved in the set-aside program.

Since almost no size standard is proposed to decrease, and most will in fact increase, very few firms would lose their small business status. We estimate that about 39,000 firms will gain small business status.

Of all firms 97.9 percent are small under our current size standards. Our May 1983 proposal would cover 98.6 percent of all firms. The marginal impact of our proposal is reflected in the fact that between March 1980 and May 1983, at no time did the proposed changes affect more than 1.7 percent of the universe of 5.2 million firms in the United States.

Prior to issuing a final rule, SBA is evaluating comments on the most recent proposal. Excluding the three most sensitive industries, which are engineering, dredging, and oil wholesalers, almost 70 percent of the respondents favor the proposal.

This is the first time that a majority of respondents has favored the proposal since the first advance notice in 1980. Out of over 800 industries, comments were received directed toward 104 specific industries. The only industries which reflected five or more adverse comments are engineering, dredging, general construction, oil wholesalers, and shipbuilding and repair.

In 1980 and 1982, under SBA's earlier proposals, there were 23 and 9 industries, respectively, with 5 or more adverse comments.

The most recent proposal generated 630 individual comments, of which 610 were from firms and associations, and 20 represented Federal agencies.

Since we have not yet completed the proposal review, it would be mere speculation to comment on the potential impact of this proposal on specific industries. We have not yet finalized the revised size standards. They have not gone through our internal clearance process. Also, one purpose of these hearings is to keep open the record so that interested parties can submit new information.

Finally, under Executive Order 12291, these rules must be submitted to the Office of Management and Budget for approval before enactment.

However, we would like to share with the subcommittee some of the comments received on the most controversial of the procurement-sensitive industries.

SIC Code 8911, Engineering, Architectural, and Surveying Services: This industry, divided into three size standards components, generated 121 comments—a fifth of all of the total comments.

The proposed rule originally recommended four functional components, splitting engineering services into military and aerospace engineering in one group, with the present $7.5 million standard increasing to $13.5 million, and engineering services, except for military and aerospace, into a second group, perceived to be mainly the construction-related engineering. The latter component reflected a proposed drop from $7.5 million to $3.5 million.

Of the 75 comments received from construction-related engineering companies, 63 were opposed to the lower standard. Of the adverse comments, 41 were identified as large firms desiring a standard even lower than the $3.5 million. Large construction-related engineering firms would also like to abolish set-asides or reduce drastically the size standards in this area.

Nonconstruction-related engineering firms involved in specialties such as energy, environment, fire protection, and transportation systems preferred to keep the current $7.5 million standard, rather than see it reduced.

On the other hand, engineering firms involved in military and aerospace equipment and military weapons supported the full inflationary increase to $13.5 million for this engineering component, which includes highly sophisticated projects for the Department of Defense and NASA.

A size standard of $9 million currently applies to naval architecture and marine engineering services. SBA proposed an $11 million standard in response to the comments of our second advance notice. From our proposed rule, we received 15 comments, of which 14 were opposed. Of those opposed, 4 want a higher standard, 6 want a lower standard, and 4 find the current standard acceptable.

As respects the SIC Code 1629, Dredging and Surface Cleanup Activities, SBA proposed to maintain the $9.5 million standard. Of 41 comments, 40 were opposed. Of these 40 comments, 28 wanted lower standards while 12 wanted the full inflationary increase.

The polarization is reflected by large and very small dredgers, on one side, wanting a very low standard, while the medium-sized dredgers and the U.S. Army Corps of Engineers prefer a higher standard.

SBA efforts to reach a compromise have been unsuccessful. We have established a task force with the Corps of Engineers and other agencies to develop a data set to use to formulate an equitable standard.

Insofar as SIC Code 5012–5199, Wholesale Trade, is concerned, there are 61 industries involved, all with a 500-employee standard.

We recognized that the current standard is very high and proposed substituting a three-tier standard at $15 million, $25 million, and $35 million, depending on the particular wholesale industry. Forty comments were received, of which 35 were opposed. The commentors preferred that SBA remain with an employee size standard.

Since several 8(a) firms would lose eligibility, 22 comments noted opposition to the $35 million and the $25 million standards proposed for two oil wholesaling industries. Particularly cited was the high dollar volume of sales and low profit margin particular to firms in these industries. The comments called to our attention the problems of our proposed wholesale size standards and asked the agency to return to an employee size criterion that would permit the several 8(a) oil wholesalers to remain eligible for size purposes.

In conclusion, Mr. Chairman, we are pleased that your subcommittee is going to hear from engineering services and dredging representatives. We look forward to reviewing their testimony.

We realize that setting equitable size standards is difficult, and our decision will not satisfy everyone. The dynamic American industrial sector is too diversified in size, scope, and operations to be simply classified.

SBA desires to expedite the final rule on the size standards revision to clarify the horizon for small firms and procuring agencies. We feel this revision is superior to our previous proposals.

On the other hand, SBA recognized that American industry is constantly changing and we want to provide every opportunity for small business. Notwithstanding the pending general final rule, we will keep the issue open ended and continue to make future amendments when justified.

Mr. Chairman and members of the subcommittee, thank you for your time.

[Mr. Sanders' prepared statement with attachments follows:]

PREPARED STATEMENT OF JAMES C. SANDERS, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION

Mr. Chairman, thank you for the invitation to appear before your subcommittee today to discuss the Small Business Administration's size standards. Appearing with me is Mr. Andrew Canellas, Director of SBA's Size Standards staff.

A small business is defined in Section 3(a) of the Small Business Act as "one which is independently owned and operated and which is not dominant in its field of operation." One of the responsibilities of the Small Business Administration is to make a detailed definition of a small business, based upon this and other statutory guidance. The Act further states that SBA may use number of employees and dollar volume of business along with other criteria in arriving at a detailed definition.

Size standards are especially important for SBA's loan program and for the procurement programs of many federal agencies. Under the loan program, a firm must not exceed the size standard of the industry associated with its principal product line. By contrast, the size standard for the procurement program is the one identified with the industry of the primary goods or services being procured.

BACKGROUND

The proposed rule of May 6, 1983, is the culmination of a long effort to adjust size standards. In testimony before this committee on March 1, 1978, a previous SBA Administrator stated that SBA would comprehensively review all of the existing size standards and make necessary changes. This was a reflection of widespread concern that the standards were often inconsistent and should be adjusted for inflation.

The agency review began with guidelines in the Small Business Act which stipulates that competition and industry differences are important criteria. To update its analyses, SBA obtained statistical tabulations from federal and private sources, and carefully reviewed industry structure. The first advance notice, which was published on March 10, 1980, focused mainly on the industrial structure and the degree of competitiveness within each industry. It ranged from 15 employees to 2,500 employees. All dollar-based size standards were restated in terms of numbers of employees in an effort to set size standards that would be inflation resistant. In addition, the industry standard would apply to all programs.

Because of the broad interest in the issue, SBA extended its initial 60-day comment period and held public hearings in each of the 10 Agency regions. Overall, SBA received over 1,500 comments from participants of the public hearings and from written comments. Almost 75 percent of the respondents were against some part of the proposal. Respondents suggested that the Agency should focus less on the competitive aspects of industries in formulating size standards. Public Law 96-481 delayed further implementation of this activity pending transition of administrations in 1981.

The Agency believed that the strong response to the proposed changes justified a reevaluation of its approach. Ideally, the process of establishing size standards should not only have a technical base (industry structure) but also should consider the needs of the federal procuring agencies and the private sector. The second advance notice of May 3, 1982, differed from its predecessor in three important ways.

First, the range of size standards was narrowed to a range of 25 employees to 500 employees. The reflected the widespread view that 15 employees was too low a cutoff (retail and service industries) while 2,500 employees was too high (manufacturing industries.)

Second, SBA proposed a 500-employee ceiling, focusing attention on smaller firms.

Third, SBA responded to sentiments within many procurement-sensitive industries that the proposed size standards in some cases were too low to accommodate the average procurement currently being performed by small business.

Therefore, SBA proposed higher size standards in a number of key procurement-sensitive industries, while maintaining the 500-employee cap.

In the second advance notice, SBA placed emphasis on encouraging smaller firms to take advantage of this opportunity, SBA received over 500 comments to its second notice from the public and affected government agencies. Seventy-two percent of these comments were negative.

CURRENT PROPOSAL

The May 6, 1983, proposed rule places greater weight on the needs of the private sector and federal agency requirements. Key features of this proposal are:

A. Existing procurement size standards are the base for uniform agency size standards.

B. Size standards which are expressed in terms of total receipts would be increased for inflation. Most industries had not been increased since 1975, thus providing an adjustment of 81 percent. This adjustment would provide parity to 1975 for firms with dollar receipt standards.

C. Size standards for manufacturing would generally remain the same. After long study of this issue, SBA interpreted the adverse comments to the first two advance notices as support for a policy decision not to disrupt our programs through widespread revisions in size standards. While a few standards would be lower, most would be higher than the present size standards. The proposed rule is a fine-tuning of current standards which has the basic support of both the private sector and the federal agencies that use the basic size standards to achieve their set-aside procurement goals.

OVERALL IMPACT OF CHANGES

Any change evokes uncertainty as to the impact of a new environment on individuals and their businesses, However, our proposal accounts for past inflation and accommodates specific problems in industries involved in the set-aside program.

Since almost no size standard is proposed to decrease, and most will in fact increase, very few firms would lose their small business status. We estimate that about 39,000 firms will gain small business status.

Of all firms 97.9 percent are small under our current size standards. Our May 1983 proposal would cover 98.6 percent of all firms. The marginal impact of our proposal is reflected in the fact that between March 1980 and May 1983, at no time did the proposed changes affect more than 1.7 percent of the universe of 5.2 million firms in the United States.

RESPONSE TO PROPOSED RULE OF MAY 1983

Prior to issuing a final rule, SBA is evaluating comments on the most recent proposal. Excluding the three most sensitive industries (engineering, dredging and oil wholesalers) almost 70 percent of the respondents favor the proposal. This is the first time that a majority of respondents has favored the proposal since the first advance notice was published in March 1980. Out of over 800 industries, comments were received directed toward 104 specific industries. The only industries which reflected five or more adverse comments were engineering, dredging, general construction, oil wholesalers, and shipbuilding and repair. In 1980 and 1982, under SBA's earlier proposals, there were 23 and nine industries, respectively, with five or more adverse comments.

The most recent proposal generated 630 individual comments, of which 610 were from firms and associations, and 20 represented federal agencies. (An additional 547 letters were received from employees and "friends" or firms taking part in write-in campaigns.)

PROCUREMENT-SENSITIVE INDUSTRIES

Since we have not yet completed the proposal review, it would be mere speculation to comment on the potential impact of this proposal on specific industries. We have not finalized the revised size standards. They have not gone through our internal clearance process. Also, one purpose of these hearings is to keep the record open so that interested parties can submit new information. Finally, under Executive Order 12291, these rules must be submitted to the Office of Management and Budget for approval before enactment. However, we would like to share with the Subcommittee some of the comments received on the more controversial of the procurement-sensitive industries.

SIC-8911, ENGINEERING, ARCHITECTURAL, AND SURVEYING SERVICES

This industry, divided into three size standards components, generated 121 comments (one-fifth of all comments). The proposed rule originally recommended four functional components, splitting engineering services into military and aerospace engineering in one group, with the present $7.5 million standard increasing to $13.5 million, and engineering services, except for military and aerospace, into a second group, perceived to be mainly construction-related engineering, The latter component reflected a proposed drop from $7.5 million to $3.5 million. Of 75 comments received from the construction-related engineering component, 63 were opposed to the lower standard. Of the adverse comments, 41 were identified as large firms desiring a standard much lower than the $3.5 million recently proposed. Large construction-related engineering firms would like to abolish set-asides or reduce drastically the size standards in this area.

Non construction-related engineering firms involved in specialties such as energy, environment, fire protection and transportation systems preferred to keep the current $7.5 million standard, rather than see it reduced. On the other hand, engineering firms involved in military and aerospace equipment and military weapons supported the full inflationary increase to $13.5 million for this engineering component, which includes highly sophisticated projects for the Department of Defense and National Aeronautics and Space Administration.

A size standard of $9 million currently applies to naval architecture and marine engineering services. SBA proposed an $11 million standard in response to the comments of our second advance notice. From our proposed rule, we received 15 comments of which 14 were opposed. Of those opposed, 4 want a higher standard, 6 want a lower standard, and 4 find the current standard acceptable.

SIC-1629, DREDGING AND SURFACE CLEANUP ACTIVITIES

SBA proposed to maintain the $9.5 million standard. Of 41 comments, 40 were opposed. Of these 40 comments, 28 wanted lower standards while 12 wanted the full inflationary increase. The polarization is reflected by large and very small dredgers, on one side, wanting a very low standard, while the medium-sized dredgers and the U.S. Army Corps of Engineers prefer a higher standard. SBA efforts to reach a compromise have been unsuccessful. We have established a task force with the Corps of Engineers and other agencies to develop a data set to use to formulate an equitable standard.

SIC 5012-5199, WHOLESALE TRADE

Wholesale trade has 61 industries, all with a 500-employee standard. We recognized that the current standard is very high and proposed substituting a three-tier standard at $15 million, $25 million, and $35 million, depending on the particular wholesale industry. Forty comments were received, of which 35 were opposed. The commentors preferred that SBA remain with an employee size standard.

Since several 8(a) firms would lose eligibility, twenty-two comments noted opposition to the $35 million and the $25 million standards proposed for the two oil wholesaling industries. Particularly cited was the high dollar volume of sales and low profit margin particular to firms in these industries. The comments called to our attention the problems of our proposed wholesale size standards and asked the agency to return to an employee size criterion that would permit the several 8(a) oil wholesalers to remain eligible for size purposes.

CONCLUSION

We are pleased that the Subcommittee is going to hear from engineering services and dredging representatives. We look forward to reviewing this testimony.

We realize that setting equitable size standards is difficult, and our decision will not satisfy everyone. The dynamic American industrial sector is too diversified in size, scope, and operations to be simply classified.

SBA desires to expedite the final rule on the size standards revision to clarify the horizon for small firms and procuring agencies. This revision is superior to our previous proposals.

On the other hand, SBA recognizes that American industry is constantly changing and we want to provide every opportunity for small business. Notwithstanding the pending general final rule, we will keep the issue open-ended and continue to make future amendments when justified.

Mr. Chairman, Members of the Subcommittee, thank you for your time today. I will be pleased to respond to any questions you may have.

TABLE 1. RESPONSES TO THE NOTICE OF PROPOSAL OF MAY 6, 1963, TO REVISE SBA'S SIZE STANDARDS

	Comments
Total comments:	
From firms and associations [1]	610
From Federal agencies	20
Total	630
Comments from public directed to a specific industry:	
For a proposed standard	274
Against a proposed standard	260
Vague or position unknown	18
Total	552
Comments from public not directed to a specific industry:	
For the proposal	25
Against some part of the proposal [2]	21
Vague or position unknown	12
Total	58
Industries with 5 or more adverse comments:	
Engineering, architecture and surveying services	95
Dredging	43
Heavy construction (except dredging)	14
Oil wholesalers	12
Shipbuilding and repair	10
Total adverse comment—5 industries	174

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[1] Does not include 547 letters from employees and friends of several firms taking part in a write-in campaign.

[2] Includes 16 comments pertaining to special issues.

TABLE 2. PUBLIC RESPONSE COMPARISON OF FIRST AND SECOND ADVANCE NOTICES AND NOTICE OF PROPOSAL TO REVISE SBA'S SIZE STANDARDS

	1st advance notice, March 10, 1980	2d advance notice, May 3, 1982	Notice of proposal, May 6, 1983
Total letter responses	1,124	526	610
Position of respondents:			
For the proposal	201	87	299
Against some part of the proposal	836	378	281
Vague or indefinite in position	87	61	30

TABLE 2. PUBLIC RESPONSE COMPARISON OF FIRST AND SECOND ADVANCE NOTICES AND NOTICE OF PROPOSAL TO REVISE SBA'S SIZE STANDARDS—Continued

	1st advance notice, March 10, 1980	2d advance notice, May 3, 1982	Notice of proposal, May 6, 1983
Percent of respondents:			
For the proposal	17.9	16.5	49.0
Against some part of the proposal	74.4	71.9	46.1
Vague or indefinite in position	7.7	16.5	4.9
Specific industries with comment	218	144	104
Industries with 5 or more advance comments	23	9	5
Position of respondents excluding comments on dredging, engineering, architecture, and surveying services and oil wholesalers (3 sensitive industries):			
For the proposal	181	70	275
Against some part of the proposal	740	265	121
Vague or indefinite in position	82	53	24
Percent with position in favor of proposal	19.7	20.9	69.4

Mr. MITCHELL. Thank you very much, Mr. Sanders.

I am constrained to compliment SBA for apparently wrestling with a very, very complex problem, and achieving some degree of success. We are down now to maybe three or four categories that are still having difficulties with the regulation as opposed to a whole host of categories, which opposed the 1978 and the other two earlier proposed regulations. But I think evidently your staff has worked long and arduously to try and satisfy the needs and the desires and demands of various components in the economy. There is no question.

I am perfectly willing to state that there has to be some sort of adjustment based upon inflation. No question about that.

I am concerned a little bit with a couple of things that appear to be inconsistent. In your May 6 publication—and I want to make sure we state this accurately—you state that one of the reasons for this proposed rule is:

> Since prime purposes of procurement assistance programs are to assure continuation and availability of competition, and to expand the mobilization base, standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication.

Now, that is on that side.

Yet, when I look at the regulations, I am looking under No. 2, Size Standards Policies. Whereas, the definition of small business for each industry should be limited to that segment of the industry struggling to become competitive. Smaller concerns often are forced to compete with middle-size as compared with large concerns. In consideration of this fact, the standard for each industry should be established as low as is possible.

Unless I am not reading this correctly, it seems to me that is in diametric opposition to your May 6 publication. On the one hand you are saying must be sufficiently high. However, under your regs you are saying that the standard for each industry must be established as low as is reasonably possible. Can you explain that apparent dichotomy?

Mr. SANDERS. A lot of things I can't explain about the regulations, Mr. Chairman, or the law involved, but I think that I can approach this from a more practical point of view. Part of the idealism of this agency is to foster and protect an environment for the establishment and flourishing of small businesses, yet as the activities of the SBA have evolved over 30 years, and particularly the procurement activities, which are the oldest activities of this agency, these standards have evolved which continue to seem to enlarge the universe that we are dealing with.

These practices come about slowly over a period of time. If you and I were to try to reform this as those first two attempts did on some methodology that was aimed toward really concentrating on the smaller end of the universe of each industry—to focus on them and eliminate the middle-sized firms from competing with the small ones, we would engender the same kind of opposition that we have in the past. We have all of the industries that have been enjoying the small business set-aside activities coming in here as well as the 8(a) firms which might be eliminated under a more reduced size standard. So what we do, I think, is continue to go along with a custom that has slowly evolved. It involves a very large segment of over 98 percent of all the businesses in America included in this program.

It is our purpose in proposing this last set of regulations that we acknowledge that as a reality and then that we set about finetuning some of these very troublesome areas, one at a time.

I think the failure in the past was because we tried to reform the entire system on some kind of methodology that made sense to someone but didn't make any practical sense as opposed by every phone call that reached any Congressman's office.

It doesn't seem practical that we can try to reduce the size standards in most any category.

Mr. **MITCHELL.** I heard you but I am not quite sure that I am in sync with you.

It is the Small Business Administration and its emphasis is on small business. If you are saying to me that your statement with reference to the medium-size businesses is merely an acknowledgment of concern for them but that your focus will still remain on keeping the standards as low as possible to protect small businesses—if that is what you are saying, I am with you. If that is not what you are saying, I am not.

Mr. **SANDERS.** No, I think I am saying that. I wouldn't disagree with what you said.

Mr. **MITCHELL.** OK.

On the wholesale trade in your testimony, you say the agency would return to an employee-size criteria. Is that 500 in the wholesale trade?

Mr. **SANDERS.** It is presently 500, Mr. Chairman.

Mr. **MITCHELL.** And you are agreeable to returning to that?

Mr. **SANDERS.** Yes, I think we are still keeping this whole subject open waiting for testimony. But in my candid opinion, the three-tiered revenue size standard would fly in the face of practice and eliminate some 8(a) firms and I would, therefore, not support that. I think we will return to the 500.

Mr. **MITCHELL.** OK.

How will the firms presently participating in your SBA programs be affected by these size standards if they are put into effect? You said it was only minimal?

Mr. **Sanders**. I think we indicated that in almost every category the size standards have been increased and we will have more firms eligible now under the size standard than before. I think the only one affected potentially by the size standards in the area of complaint was the oil wholesalers. Am I correct?

Mr. **Mitchell**. Yes. And you are attempting to make some adjustment there?

Mr. **Sanders**. Yes, that is the one we just spoke about.

Mr. **Mitchell**. Now, on the 8(a) section, will the minimal impact that you suggest, if the regulations are adopted, accepted, you said there will be a minimal impact across the board.

Will there be any disproportionate impact on the 8(a) firms?

Mr. **Sanders**. I can't think of any impacting the oil wholesaling, can you?

Mr. **Canellas**. No, certainly not any adverse impact. As a matter of fact, most of the 8(a) firms from whom we have heard comments—and since they are not in the manufacturing industries, tend to be very much in favor of the overall inflationary increase of 80 percent, because it does give them more room to grow.

Mr. **Mitchell**. What about those that are in the manufacturing aspect?

Mr. **Canellas**. Those that are in manufacturing basically don't seem to have any problem whatsoever with our manufacturing levels now.

As you know, Mr. Chairman, our lowest manufacturing level is 500 employees.

Mr. **Mitchell**. Yes.

Mr. **Canellas**. So that does give ample room for growth.

Mr. **Mitchell**. I have a ton of questions but I will make this the last one.

What about new companies coming into the SBA? Will this diminish in any way the new applications that you would receive under 8(a) or any other aspect of the program?

Mr. **Sanders**. I can't think of any.

Mr. **Mitchell**. Do you think it will have any adverse impact at all?

Mr. **Canellas**. Not at all, sir.

Mr. **Sanders**. No.

Mr. **Mitchell**. Thank you.

Mr. Daub?

Mr. **Daub**. Thank you, Mr. Chairman.

Mr. Administrator, as always I am impressed. I marvel at the staff work and the complicated problem that you have had to deal with.

I first became acquainted with it, Mr. Chairman, during the White House Conference on Small Business in 1980, which I had the privilege of attending.

I have followed it carefully. I will say that particularly because of the construction industry and because of the architect and design engineer center, which Omaha, Nebr., is in the Midwest, I have taken an even closer look at this field.

You have made progress. I want to commend you all for that and ask you to work doubly hard with this set of published regulations now to accommodate the areas that you specifically mentioned in your testimony so that this matter might be once and for all concluded and some stability given to the playing field out there for our small businesses. They need it. I know you are aware of that.

Let me first ask this question. Since 1980, the Small Business Administration has proposed three different size standards for the architect-engineer industry. Fifty employees, one hundred and fifty employees, and the current $3.5 million size standards.

Have any of these proposed size standards been based on an independent industry survey and analysis conducted by the SBA Office of Industry Analysis?

Mr. **Sanders**. Mr. Canellas, maybe you can describe this to the Congressman.

Mr. **Canellas**. When you say if any of these have been based on an independent analysis, yes, our office analyzed this industry in considerable depth each time. The first time that the agency published its proposal in March 1980, we specifically looked at the industrial structure of all industries. And we noted in the engineering industries that it tended to be relatively low. In other words, it was something like 70,000 in this industry, of which approximately 35,000 have no employees. We did recognize that the average size firm was low.

As a result, in our first advance notice we suggested a relatively low standard. I believe it was 50 employees, across the board. However, that did not take into account the different types of engineering services that you have in overall engineering.

We were able to detect this from the numerous comments that came into the agency.

Subsequent to that, in our second advance notice, the vast majority of those that commented to our first were opposed to the 50 standard. Also, we had heard from approximately 30 Federal agencies. The Federal agencies simply told us that they could not conduct their set-aside program with a level that low.

We then examined the 150 employees relative to the existing dollar volume standard and we felt that 150 approximated the $7.5 million that was in existence at that time. So we went with that 150-employee level.

That, again, resulted in a generally adverse comment from the sector.

The reason, Mr. Congressman, that one obtains these differing feedbacks is that at times one does not hear from the same firms.

Mr. **Daub**. Did you cross-tabulate——

Mr. **Canellas**. Yes.

Mr. **Daub**. Any comments that came in and see what your——

Mr. **Canellas**. Yes, we did.

Mr. **Daub**. Reference point was what? Did half the first complaining firms end up complaining again?

Mr. **Canellas**. Some of them did and some of them did not. Human nature being what it is, if one encounters a standard with which they approve, they don't bother to tell us about it, normally.

However, if they encounter a standard with which they do disapprove, then we are most certain to hear from them.

So we encounter this kind of syndrome back and forth. We recognize that these small businesses have to look after their self-interest.

So if you have a firm at a particular level, and we come out with a standard that is below that level, they will complain to us about it. On the other hand, if you have the same firm at the given level and we come out with a standard that is sufficiently higher than that which permits another tier of firms to come in, they also will let us know that they are opposed to that. In other words, most firms prefer to have a standard closest to where they are, and that is just above it.

Mr. DAUB. I have often thought in Congress, Mr. Chairman, I would just yearn to see a panel of witnesses, for example—and I use this now, I hope, with great understanding—of satisfied customers of the Congress activity to eliminate someone from the roles because they were caught cheating.

I mean, you know, we never have testimony presented to us in that way. It is always the panel of victims or the complaint, and always from the suffering. We understand that, and you are right. So you state it accurately.

You have to look beyond that. You know, that is part of your responsibility to read between the lines then, I guess, and be candid with us. Does that get you then to $3.5 million in size? Is that kind of how you decided to move away from quantifying in terms of employees in this particular field of architect-engineer?

Mr. CANELLAS. In the 3.5 we split the engineering services into two major groups. We recognized that a large proportion of those that wanted a lower standard were basically construction-related engineering firms.

Mr. DAUB. OK.

Mr. CANELLAS. So that is why we did that.

Mr. DAUB. So you did that?

Mr. CANELLAS. Right.

On the other hand, there are a large group of firms in that same category that are involved in very sophisticated contracts for DOD, for NASA, and some of the other agencies, and mainly in weapons and the systems category. In that area we felt it justified to provide an inflationary increase.

Mr. DAUB. I am not sure if this helps or hurts where we are trying to go, but do you have any thoughts or did you look at different numbers and then end up arriving at this splitting?

Mr. CANELLAS. Yes.

Mr. DAUB. Did you look at 250 employees?

Mr. CANELLAS. Yes.

Mr. DAUB. Did you look at $5 million?

Mr. SANDERS. I don't want to cause the problem that I know——

Mr. CANELLAS. We looked at all of them, Mr. Congressman, and I would just like to say this. When we set size standards we look at it from a multiple factor point of view. In other words, it is not easy to say. One of the things we definitely take into account is the economics of that industry—what does the structure of that industry tell us in terms of the number of firms, the average size, the percent of output that any given group is responsible for? So that is No. 1.

Second, however, we do have to examine the needs of the Federal agencies, because the size standards do not sit out there in limbo.

Mr. **Daub**. I appreciate that.

Mr. **Canellas**. They have to be used by the Federal agencies, so we must take them into account.

Third, we do try to develop an ongoing dialog with the private sector. This has been demonstrated by our three comment periods.

Mr. **Daub**. I appreciate that very much and I want to move my time along as well. That is a good answer. I appreciate that information being on the record.

With respect to dredging as an industry, Mr. Administrator, there are 27 SIC Codes for construction-related industries, and all but one of them, the dredging industry, have been raised. The dredging level remains at the 1975 level. Evidently you received 41 comments, if I read your numbers correctly.

Can you tell me now, and if you cannot, would you supply to the committee the information that would relate to how many small firms, how many from nondredgers, and how they voted?

Mr. **Sanders**. I think the best thing to do, Mr. Daub, is submit that for the record. We do have that tabulation and quite a file on dredgers, as a matter of fact.

[The information referred to above follows:]

REACTION TO NOTICES, DREDGING INDUSTRY (TOTAL)

	1st advance notice (March 1980) (1,000 employees)	2d advance notice (May 1982) ($9.5 million)	Proposed rule (May 1983) ($9.5 million)
Want higher	0	3	12
Want lower	28	23	28
Same or indeterminate	1	3	1
Total	29	29	41

REACTION TO NOTICES, DREDGING INDUSTRY

[Firms active in 1980–81 period only]

	1st advance notice (March 1980) (1,000 employees)	2d advance notice (May 1982) ($9.5 million)	Proposed rule (May 1983) ($9.5 million)
Want higher	0	2	5
Want lower	14	9	8
Same or indeterminate	0	2	1
Total	14	13	14

REACTION TO NOTICES, DREDGING INDUSTRY

[Firms that appear to be nondredgers]

	First advance notice (March 1980) (1,000 employees)	Second advance notice (May 1982) ($9.5 million)	Proposed rule (May 1983) ($9.5 million)
Want higher	0	1	7
Want lower	14	14	20

REACTION TO NOTICES, DREDGING INDUSTRY—Continued

[Firms that appear to be nondredgers]

	First advance notice (March 1980) (1,000 employees)	Second advance notice (May 1982) ($9.5 million)	Proposed rule (May 1983) ($9.5 million)
Same or indeterminate	1	1	0
Total	15	16	27

TABLE 1.—RESPONSES TO THE NOTICE OF PROPOSAL OF MAY 6, 1983, TO REVISE SBA'S SIZE STANDARDS

	Comments
Total comments:	
From firms and associations [1]	610
From Federal agencies	20
Total	630
Comments from public directed to a specific industry:	
For a proposed standard	274
Against a proposed standard	260
Vague or position unknown	18
Total	552
Comments from public not directed to a specific industry:	
For the proposal	25
Against some part of the proposal [2]	21
Vague or position unknown	12
Total	58
Industries with 5 or more adverse comments:	
Engineering, architecture and surveying services	95
Dredging	41
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Oil wholesalers	12
Shipbuilding and repair	10
Total adverse comment—5 industries	172

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[1] Does not include 547 letters from employees and friends of several firms taking part in a write-in campaign.

[2] Includes 16 comments pertaining to special issues.

TABLE 2. PUBLIC RESPONSE COMPARISON OF FIRST AND SECOND ADVANCE NOTICES AND NOTICE OF PROPOSAL TO REVISE SBA'S SIZE STANDARDS

	1st advance notice, March 10, 1980	2nd advance notice, May 3, 1982	Notice of proposal, May 6, 1983
Total letter responses	1,124	526	610
Position of respondents:			
For the proposal	201	87	299
Against some part of the proposal	836	378	281
Value of indefinite in position	87	61	30
Percent of respondents:			
For the proposal	17.9	16.5	49.0
Against some part of the proposal	74.4	71.9	46.1
Vague or indefinite in position	7.7	16.5	4.9
Specific industries with comment	218	144	104
Controversial or sensitive industries or industry groups	34	15	5

TABLE 2. PUBLIC RESPONSE COMPARISON OF FIRST AND SECOND ADVANCE NOTICES AND NOTICE OF PROPOSAL TO REVISE SBA'S SIZE STANDARDS—Continued

	1st advance notice, March 10, 1980	2nd advance notice, May 3, 1982	Notice of proposal, May 6, 1983
Position of respondents excluding comments on dredging, engineering, architecture, and surveying services and oil wholesalers (3 sensitive industries):			
For the proposal	181	70	275
Against some part of the proposal	740	265	121
Vague or indefinite in position	82	53	24
Percent with position in favor of proposal	19.7	20.9	69.4

TABLE 3. COMMENTS FROM FIRMS AND ASSOCIATIONS TO THE NOTICE OF PROPOSAL OF MAY 6, 1983, TO REVISE THE SBA SIZE STANDARDS BY INDUSTRY

SIC	Total	Pro	Con	Vague or unknown
No SIC	42	25	5	12
Agriculture:				
Crops	1	1	0	0
0181	1	0	1	0
0211	1	1	0	0
0212–0251 livestock farms	1	1	0	1
0252	1	0	0	1
07 group	3	0	3	0
08 group	4	0	4	0
Mining: 13 group	1	1	0	0
Construction:				
15 group	26	17	7	2
1542	1	1	0	0
16 group	25	16	7	2
1611	3	3	0	0
1623	2	2	0	0
1629 (nondredging)	2	2	0	0
1629 (dredging)	44	1	43	0
17 group	6	4	2	0
1711	2	1	1	0
1721	1	0	0	1
1731	1	1	0	0
1761	9	9	0	0
Manufacturing:				
2021	3	0	3	0
2022	3	0	3	0
2023	2	0	2	0
2024	3	0	3	0
2026	3	0	3	0
2051	2	0	2	0
2381	1	0	1	0
2851	1	0	1	0
2911	2	1	1	0
3151	1	0	1	0
3321	1	1	0	0
3322	1	1	0	0
3324	1	1	0	0
3325	1	1	0	0
3361	1	1	0	0
3362	1	1	0	0
3369	1	1	0	0
3494	1	0	1	0
3569	2	2	0	0
3662	1	0	1	0

TABLE 3. COMMENTS FROM FIRMS AND ASSOCIATIONS TO THE NOTICE OF PROPOSAL OF MAY 6, 1983, TO REVISE THE SBA SIZE STANDARDS BY INDUSTRY—Continued

SIC	Total	Pro	Con	Vague or unknown
3731 (shipbuilding)	12	4	8	0
3731 (ship repair)	13	3	10	0
3832	1	1	0	0
3955	1	0	1	0
Transportation:				
42 group	1	1	0	0
4212	6	5	0	1
4213	5	4	0	1
4214	2	1	0	1
4224	1	1	0	0
4469	1	0	1	0
47 group	1	1	0	0
Communications and utilities:				
4899	1	1	0	0
4953	3	1	2	0
Wholesale trade:				
5014	1	1	0	0
5021	3	0	3	0
5052	1	0	1	0
5063	1	0	1	0
5081	1	0	1	0
5086	1	0	1	0
5088	1	0	1	0
5112	2	0	2	0
5113	1	0	1	0
5141	2	1	1	0
5171	10	0	10	0
5172	15	2	12	1
5194	1	0	1	0
Retail trade:				
Retail as a whole	1	0	1	0
5211	1	1	0	0
5261	1	1	0	0
53 group	1	1	0	0
5411	1	1	0	0
5511	1	0	1	0
5531	1	1	0	0
5541	1	0	1	0
5712	1	0	1	0
5812 (restaurants)	1	1	0	0
5812 (food services)	16	16	0	0
5893	1	0	1	0
5943	1	0	1	0
5983	1	0	1	0
Services:				
7211	1	1	0	0
7215	2	1	1	0
7217	1	1	0	0
7311	1	1	0	0
7341	2	2	0	0
7342	1	1	0	0
Services:				
7249	22	21	1	0
7362	1	1	0	0
7369	21	20	1	0
7372	2	2	0	0
7374	3	3	0	0
7389	1	1	0	0
7391	8	6	1	1
7392	1	1	0	0

TABLE 3. COMMENTS FROM FIRMS AND ASSOCIATIONS TO THE NOTICE OF PROPOSAL OF MAY 6, 1983, TO REVISE THE SBA SIZE STANDARDS BY INDUSTRY—Continued

SIC	Total	Pro	Con	Vague or unknown
7393	3	2	0	1
7394	1	1	0	0
7397	1	0	1	0
7399	1	1	0	0
75 group	1	1	0	0
7534	1	1	0	0
7628	2	1	1	0
7699	1	0	0	1
7813	1	0	1	0
8299	1	1	0	0
8911 (engineering and A/E)	102	19	78	5
8911 (naval architecture and marine engineering)	15	1	14	0
8911 (architecture)	4	1	3	0
8931	66	42	4	0
Total—relating to standards	594	299	265	30
Special issues	16			
Total comments	610			

Mr. DAUB. Why did you not change the standard?

Mr. SANDERS. Would you like to comment on that, Mr. Canellas?

Mr. CANELLAS. Yes. We received 41 comments on this industry, and 40 were opposed.

Mr. DAUB. Of the 40 that were opposed, 28 wanted lower standards and 12 wanted the full inflationary increase, so you do have a considerable split.

Mr. CANELLAS. We felt that we could not at this time raise the standard, even though we had gone across the board in most all the standards, because there was a 2-to-1 margin wanting it lower. OK? In terms of our comments.

If we received, as I say, 40, and 28 wanted lower standards, it is pretty difficult for us to go ahead and raise it for that industry.

We have worked closely with the Corps of Engineers. We feel that we need more information. As the Administrator has indicated, there are several of these industries that we feel may require future amendments, and we would plan to do that.

Mr. DAUB. What is the composition of this ad hoc committee that you formed? Who is on it? Are there any so-called outsiders like—big or little dredging contractors?

Mr. CANELLAS. The committee is comprised of several Federal agencies and the task force has put together a questionnaire. In putting together this questionnaire they have met with both large and small dredgers. We have submitted the questionnaire to OMB for their approval.

The committee itself is a Government committee, the people that will be purchasing dredging contracts. We have touched base with the dredging private sector, both large and small firms.

Mr. DAUB. Would this committee have an opportunity to look at the results of that survey, once approved and out?

Mr. CANELLAS. Yes, sir.

Mr. Daub. Would it be possible we could see that before any alteration may result in the—I would like to see the questionnaire, actually, in raw form, if I might——

Mr. Canellas. No question. We can submit that.

[Dredging industry questionnaire follows:]

# Dredging Industry Questionnaire
for
Small Business Administration
Size Standard Office

PURPOSE: To provide the Small Business Administration (SBA) Size Standard Office with detailed information on individual dredging companies so that it can analyze the dredging industry as a whole and ultimately establish a justified size standard for this industry.

BACKGROUND:

a. The Small Business Administration was established by the Small Business Act (15 USC 631) for the purpose of (1) maintaining a mobilization base in the U. S. (2) promoting the nations' economic health and (3) assuring a fair proportion of government contracts was placed with small business firms.

b. Section 3(c) of the Small Business Act authorizes the SBA to conduct studies to determine the size standard for individual industries in order to be eligible for participation in the Small Business program.

c. The size standard for the dredging industry has been set at $9.5 million in average annual receipts (3 years) since August 5, 1975. The SBA is currently soliciting comments in the Federal Register under a proposed final rule to establish a final size standard for this industry.

d. Because of the recent changes in the composition of the dredging industry nationwide and the continued controversy over the existing standard, the SBA wishes to undertake a study of the dredging industry to evaluate the size standard consistent with current industry and government needs.

REQUIREMENT: The attached questionnaire is provided for your use in assisting the SBA to establish a small business size standard for the dredging industry consistent with the needs of industry and government. Proprietary information provided on this form will be handled in a confidential manner and is for the purpose of analysis by the SBA in determining a justified set-aside standard for the dredging industry only. Should you have a question, please contact Bob Ray directly on (202) 653-6373. Request the attached questionnaire be returned to:

Bob Ray
Office of Size Standards
U. S. Small Business Administration
Room 500
1441 L Street, N. W.
Washington, D. C. 20416

SBA will request approval of Confidential Survey Participants prior to release of any information on this form. (Citation: Specific exemption to the Freedom of Information Act (FOIA), S. U. S. C. § 552 (b)(4))

Survey of Dredging Industry

Questionnaire

1. Firm Name: ____________________
Firm Address: ____________________
City, State, Zip Code ____________________
Telephone No: ____________________
Point of Contact: ____________________

2. Affiliates and Associated Businesses* ____________________
Address: ____________________
City, State, Zip Code ____________________

3 a. What is the net worth of your firm and its affiliates?
____

b. List Principal Stockholders:

____
____
____
____

c. Are the principal stockholders in other companies?

Yes ________ No ________

4. List Principal Officers of Dredging Firm and Title:

Name	Title
____________________	____________________
____________________	____________________
____________________	____________________
____________________	____________________

5. Total annual receipts for your firm and its affiliates as reported on come tax statements for each of the following years: FY Beginning ___ nding ___

1975	$ ____________	1979	$ ____________
1976	$ ____________	1980	$ ____________
1977	$ ____________	1981	$ ____________
1978	$ ____________	1982	$ ____________

. Total annual in-place yardage dredged by your firm and its affiliates for e Federal Government for the following years:

1975	____________ cy	1979	____________ cy
976	____________ cy	1980	____________ cy
1977	____________ cy	1981	____________ cy
1978	____________ cy	1982	____________ cy

SBA will request approval of Confidential Survey Participants prior to release of any information on this form. (Citation: Specific exemption to the Freedom of Information Act (FOIA), S. U. S. C. & 552 (b)(4))

7. Total annual in-place yardage dredged by your firm and its affiliates for other than the Federal Government for the following years:

1975	______________cy	1979	______________cy
1976	______________cy	1980	______________cy
1977	______________cy	1981	______________cy
1978	______________cy	1982	______________cy

8. Total annual in-place yardage dredged by your firm and its affiliates under Federal set-aside programs for the following years:

1975	______________cy	1979	______________cy
1976	______________cy	1980	______________cy
1977	______________cy	1981	______________cy
1978	______________cy	1982	______________cy

9. a. Total annual receipts received by your firm and its affiliates for contract work for dredging with related work including awarded and received (subcontracted) for the following years:

FY Beginning _______ Ending ________

1975	$______________	1979	$______________
1976	$______________	1980	$______________
1977	$______________	1981	$______________
1978	$______________	1982	$______________

b. Total annual receipts received by your firm and its affiliates for Federal contract work for dredging including awarded and received (subcontracted) for the following years:

1975	$______________	1979	$______________
1976	$______________	1980	$______________
1977	$______________	1981	$______________
1978	$______________	1982	$______________

c. How much of the Annual Federal dredging work including awarded and received (subcontracted) was in the Federal set-aside for dredging work for your firm and its affiliates?

1975	$______________	1979	$______________
1976	$______________	1980	$______________
1977	$______________	1981	$______________
1978	$______________	1982	$______________

10. a. Are your registered on the Government bidding list? __________

b. How many government dredging advertisements for small business set-asides have you bid? __________

c. If you did not bid, why not? ______________________________
____
____
____

SBA will request approval of Confidential Survey Participants prior to rel
of any information on this form. (Citation: Specific exemption to the Fre
of Information Act (FOIA), S. U. S. C. & 552 (b)(4))

11. In what states do you anticipate performing dredging activity in the n
future? ______________________________

12. Average number of payroll employees in your firm, affiliates, and associates.

Company Fiscal Year	Average No. Full Time	Average No. Seasonal/PT	Average No. FT/Equivalents
1980			
1981			
1982			

13. What size standard do you recommend? ______________________________

14. List any other criteria in addition to receipts which you believe should be used as a standard in the dredging industry to determine a small business.

____

____

____

____

15. How do we proceed after 1984 to adjust the standard for changes in economic conditions?

____

____

____

____

16. Provide the information on the attached sheet for each dredge owned by your firm. Separate sheets should be provided for each dredge.

EQUIPMENT

DREDGE ~~[illegible]~~ ~~[illegible]~~ SURVEY

(Copies of this form are authorized. Provide one form for each piece of equipment).

1. DREDGE NAME OR OTHER IDENTIFICATION ______ ____________________

2. STATUS: ACTIVE _____ INACTIVE _____ (If inactive, how long? ______)

3. TYPE: ________________ (e.g. cutterhead, dustpan, hopper, etc.)

4. SIZE: __________ DISCHARGE DIAMETER in inches (for pipeline)
__________ CUBIC YARDS (for hoppers)
__________ CUBIC YARDS of bucket (for mechanical)
__________ OTHER

5. DIMENSIONS: LENGTH OVERALL ________ FEET
BEAM ________ FEET

6. DRAFT: LIGHT ________ FEET
LOADED ________ FEET

7. DREDGING DEPTH: MAXIMUM ________ FEET
MINIMUM ________ FEET

8. AGE: _______ YEARS

CONDITION: NEW ___ GOOD ___ FAIR ___ POOR ___

9. POWER TYPE: STEAM ________ DIESEL ________ ELECTRIC ________

10. HORSEPOWER: PROPULSION ___________ H.P.
DREDGE PUMP ___________ H.P.

11. NUMBER OF DREDGE PUMPS: _________
DISCHARGE DIAMETER OF EACH ________
NUMBER OF DRAGARMS ________ (hopper only)

12. NUMBER IN CREW: _________ (1st shift)
_________ (2nd shift)
_________ (3rd shift)

13. TOTAL NUMBER OF MONTHS UTILIZED IN THE FOLLOWING YEARS:

1975 _______ 1979 _______
1976 _______ 1980 _______
1977 _______ 1981 _______
1978 _______ 1982 _______

14. SPECIAL FEATURES - LADDER/DRAGARM PUMP? _______
SIDECASTING? _____________
DIRECT PUMPOUT? ___________
OTHER? __________________

15. COMPANY NAME: ______________________________
____

Mr. **Daub**. If it won't be any trouble, I would like to look at that to make sure that we have a chance to see how balanced it will be. I am sure it will be but I would like to at least have an opportunity to look at it.

Mr. **Mitchell**. I think we have a copy of the questionnaire.

Mr. **Sanders**. I think we will also give you a breakdown for the kind of contracts that are available in these size groups as reported to us by the agencies.

[The information referred to above follows:]

Estimated grouped dredging firms by size of firm and average contract size (fiscal years 1980 and 1981)

Rank by size of firm:	*Average contract size*
First to 5th largest	$2,223,152
Sixth to 10th largest	1,436,443
11th to 15th largest	1,298,125
16th to 20th largest	1,548,672
21st to 25th largest	470,636
26th to 30th largest	1,422,160
31th to 35th largest	694,578
36th to 40th largest	594,824
41st to 45th largest	326,965
46th to 50th largest	247,674
51st to 55th largest	192,551
56th to 60th largest	218,362
61st to 65th largest	86,837
66th to 70th largest	85,548
71st to 75th largest	90,755
76th to 90th largest	69,796
Remaining seven firms	31,918

Mr. **Daub**. Could you do that? I think that will help a little bit because I recognize the degree of difficulty when you get comments like you have so far. You have to look and see whether it is orchestrated comments and assess what dimensions are economically of those who do write the comment, as you pointed out in your earlier answer, and I appreciate that.

I have one last question, Mr. Chairman, and that would be: Mr. Administrator, since you are familiar with the construction industry and know the competitiveness within it, do you think that set-asides are necessary?

Mr. **Sanders**. Mr. Daub, I would like to answer that not in a brief way but just a little examination. With your permission, Mr. Chairman, a little examination of the kind of philosophy behind the small business size standards.

It is a whole fascinating field, of course, of its own. If I didn't have other things to do in the agency, I could make a full 12-hour day, every day, dealing with size standards. But as you can see, I have delegated a lot of this to Mr. Canellas, who is very capable and has a great background in dealing with this every day with people he has working on his staff. As you know, a great deal of our time is spent in hearings on size standards. This is the thing that sets in motion and drives so much of this business. I will come to the construction industry in a minute.

I was amazed when I came into this agency to discover that what really is defined as small business, I would not define as small business. I would define it at least as small- and medium-sized business. When we go to talk to some of our friends in other countries and international meetings of the free world interested in stimulating and protecting small—they, incidentally, describe it as small- and medium-sized businesses—and their standards are all a great deal smaller than ours.

When I took a vacation this August to Norway, I was intrigued by their industrial climate and their small- and medium-sized businesses. When I described our size standards to them of small business, they pointed out that there were only about a hundred firms in all of Norway that were larger than our small business size standards in manufacturing in the entire country.

When you get into this discussion of the right number to choose, you are dealing with the large mediums, the medium larges, the mediums, the medium smalls, the small mediums, the smalls and the tinies, you know. Each one of them is jockeying for position.

If you are going to say that you are trying to protect the very small from being cannibalized by the very large, then the people in the middle are going to argue for a standard that includes them. Then the very smalls will say, well, the middle people are the ones that are eating us up in competition. So there is no end to this particular problem.

It is my private opinion—that industry there is a sufficient amount of competition in the construction industry in small- and medium-size business, that you don't have to shelter them with this kind of set-aside.

I would never advocate in this size standard that we move and eliminate them from the set-aside program because that would play havoc with what we have been doing for years. All the Federal agencies would be thrown into turmoil in their small business set-aside procedures, and you would certainly want to make some separate provision for the 8(a) program to protect the minority small business contract just because they do need that kind of shelter.

Mr. **Daub.** Can I ask you if you would put that compared to what, like 2 million? I mean, would 2 million as a cap on a set-aside be a place to look?

Mr. **Sanders.** Are you talking about the engineering firms?

Mr. **Daub.** No, I am talking about construction now.

Mr. **Sanders.** No, I would not recommend that. I am saying that my private hunch is that the law as Congress has passed it doesn't really give us the kind of equipment to deal with the size that we often talk about in small business. So we have grown up with industries where heavy construction will probably end up around 20 million.

I think that is a very substantial firm. It is not a small business, but nonetheless, of course, it is capital intensive.

I think we have come to a system that is evolved and I think that we owe to most of the people that have done business in the small business procurement set-asides for years, to resolve this doubt that we have put before them for some years now. We have got to bring this out of limbo and establish and adopt a set of standards, size standards, and move forward. This thing has been up for grabs for too long.

My proposal is we take these size standards that may be considered by some of us as more than generous, adopt them, and then go to work on some of the troublesome areas that involve dredging, architect-engineering firms, construction, wholesaling, oil wholesaling, this sort of thing, and deal with them, because each one of them requires a great deal of time. To try and combine them all into one great fight, we are not going to progress, and that is why we haven't progressed.

Mr. **Daub**. Mr. Administrator, you have touched upon the three areas in responsiveness to my questions. I appreciate them.

This subcommittee, as the primary vehicle for the full committee, Mr. Chairman, deals not only with the SBA and SBIC authority, but it deals with minority enterprise and general small business problems. So, for that reason, that last question, is always a problem. Every time we have a hearing on any kind of a subject, whether it is set-aside and 8(a), or construction or size standards, I think that is a point where they all kind of come together. There is a degree of collision there.

Philosophically you are right, if we can get things set down and then do graduations and things like that, so we don't always end up maybe diluting the competitive viability of the private sector by the very inaction of Government simply letting things slide forward instead of saying there is a point in time when Government is not going to be there anymore to allow these kinds of assisted relationships with profit margins.

I appreciate the chairman's indulgence and think that we have added some dimension of your thinking to the record which will be useful in the future. We appreciate you very much being here. I particularly want to compliment your colleague and associate who has ably amplified the record for us. It will be helpful as well.

Mr. **Mitchell**. Your questioning has caused me to raise two other questions and to make a comment.

The problem is in the eye of the beholder. From your perception you see many companies out there, let's say in construction, that can compete without any assistance. That is not my perception. Certainly as you move from city to city you will find that it is 5, 10, maybe 12, construction companies that almost monopolize the construction in those cities. Now, I do not believe that is purely political in nature. I think the monopolistic practices occur simply because your smaller guys can't compete, they just can't.

I just wanted to put my philosophical position on the record that for a very long, long time, it seems to me, we are going to need set-asides, for a long time.

Now, you are down to three or four troublesome areas: wholesale, dredging, and the architects and engineers. Our leadoff witness indicated that there might be some alternatives and that might be in the form of a tiered approach.

Have you considered these? I think you mentioned it is standard for the emerging business and standard for the business that's in, but still relatively small. Have you considered that option?

Mr. **Sanders**. We have a tiered approach in the engineering. We have four tiers and possibly would consider five in the kind of industry that they are in.

If we get into trying to examine how old a company is, whether it is just beginning, or emerging, or mature, we would be, I think, in a area of litigation, and the only ones to gain would be more lawyers. I just can't imagine how we would ever resolve whether this company was quite old enough to be medium or small.

Mr. **Mitchell**. Is it possible to apply a tiered approach to the dredging industry?

Mr. **Sanders**. Tiered in the way of the part of the specialization within the industry?

Mr. **Mitchell**. Yes.

Mr. **Sanders**. Not by maturity or age?

Mr. **Mitchell**. No.

Mr. **Sanders**. Well, I don't know. What do you think about the tiering?

Mr. **Canellas**. That is a very good question. There was some consideration given to it where the tiering would take place by size of contract. In other words, we discussed seriously with the Corps of Engineers the possibility of having a cutoff point at $500,000. In other words, if the contract is going to be for less than half a million dollars, let's set a low standard. If it is going to be for higher than a half million dollars, let's set a considerably higher standard.

We discussed this with the corps and we discussed it with the two groups of dredgers: those that want it high and those that want it low; both groups oppose the idea.

Mr. **Mitchell**. I can understand why. You get the guy who is doing very well one year, getting the big contracts. Then something happens and he has to go for the small ones.

Mr. **Sanders**. That is right.

Mr. **Mitchell**. The small guy who might want to try his oats and go for the big one. I can understand the opposition.

I guess that brings me to my final question of the statement. I started off by saying I had to commend you for working assiduously and arduously on a very tough problem. I am still not satisfied in my own mind that a single size standard can satisfy the objectives of the Small Business Act because there are two things involved: one for financial assistance on the one side; and the other in terms of the procurement problems.

I am still not satisfied but I will keep thinking on it and you keep wrestling with it.

Mr. **Sanders**. Mr. Chairman, let me add to the comment that, of course, in all these efforts we are trying to make it easier for the public to understand as they approach the regulations. We are trying to make them simpler and less abundant and still function well.

I really don't believe in this combined size standard that you will find any disadvantage to borrowers from the rather ample size standards that we have adopted which are largely procurement oriented, because the critical issue mainly is the procurement.

Mr. **Mitchell**. I am going to ask my staff to look particularly at that problem because it does seem to me the dualism between financial assistance and procurement programs could present some problems.

Mr. **Sanders**. We did look at it but we would be glad to consider your suggestions.

Mr. **Mitchell**. Thank you. Thank you very much, gentlemen.

Mr. **Sanders**. Thank you.

Mr. **Mitchell**. I am sorry.

Mr. **Daub.** Mr. Chairman, no, no, nothing with reference to our panel and our Administrator. Thank you again.

I have a conflict with a requirement to be in attendance at my Water Resources Subcommittee of Public Works and Transportation dealing with some of these same interrelated problems, I might point out, of doing something with our waterways and the Clean Air Act, and being sure that the contracting and procurement opportunities also exist.

So I will need to take leave and just wish the record to indicate that I am interested in the dredging problem and particularly panels 1 and 2. I will try to get back if I can but it may take me about an hour before I do.

Mr. **Mitchell.** I can understand. There is supposed to be a secret session of the House. Yes, that is planned for today. It may well be in effect right now. However, I am perforced to stay here if the witnesses have taken their time to be here. It also has been kind of my experience that in those secret sessions I have learned some of the information that has been published in Newsweek and Time. [Laughter.]

Mr. **Mitchell.** Yes, News & World Report.

Mr. **Daub.** I was not under the impression that the House had today to close its session, but I have found my work on the Water Resources Subcommittee and on the Small Business Subcommittee indeed more enlightening. Thank you.

Mr. **Mitchell.** We will hear from our next panel of witnesses. Panel 1 consists of Mr. Guilford D. Ware, president of the Norfolk Dredging Co. Is Mr. Ware here? Mr. William Hull, president of the Southeastern Dredge Owners Association; Mr. Olin Jones of California Dredging Co., and Mr. Arnold Hill, the Barnegat Bay Dredging Co.

Gentlemen, thank you very much for being here. I always make my public apology—I know what it means to be away from your business for 24 hours. You have lost some money already and we can't refund it to you. But we are most appreciative that you are here and that you did submit statements of your testimony in a timely fashion. For the most part we have been able to go through those statements of your testimony.

You have the option, really, of presenting your statement in its entirety or merely hitting the high points in your statement. But let me assure you that your full statement will appear in the record.

Mr. Ware, will you lead off for us, please?

TESTIMONY OF GUILFORD D. WARE, PRESIDENT, NORFOLK DREDGING CO.

Mr. **Ware.** Thank you, Mr. Chairman.

As you have stated, I am Guilford D. Ware, president of Norfolk Dredging Co. I certainly appreciate this opportunity to discuss with you the issue of small business size standards as they apply to the dredging industry. Since I have given you a written statement, I am going to try to summarize in brief form some of the highlights of the written statement.

Mr. MITCHELL. That will be excellent. Without objection, your entire statement is submitted for the record, and will be incorporated in the record.

Mr. WARE. For many years, our company qualified as a small business contractor. But we recently graduated from the program and we have made that fact known to the Corps of Engineers as well as all of the other procurement agencies which desire our competitive bidding.

Since we are very familiar with the operations of the set-aside program, I want to comment on some of the critical problems that have resulted from the manner in which the program is administered in the dredging industry.

As your committee may know, Government procurement creates the market for dredging. It is a known fact in the industry that Government is the greatest, and in many times the primary if not the only customer.

I may state for the record that Norfolk Dredging is excluded from participating in virtually all of the procurements in the company's traditional operating area of Maryland through Florida, because the Corps of Engineers and other agencies that require dredging services restrict competition on those procurements to small business only.

Thus, all contractors that are excluded by the size standard are prohibited from competing in the southeastern United States. Conversely, a very few protected middle-sized firms have dominated the program and face very little competition, if any, from other much smaller firms in the industry.

It is plain that small dredging firms—and I use small in its commonsense value—receive very little, if any, benefit from the program.

A remarkably consistent pattern of contracts awarded in the southeastern United States for the last several years reveals that a small group of middle-sized firms, in reality large firms, protected by the high $9.5 million size standard totally dominate the set-aside market.

These firms, which naturally would like to see the size standard raised so that they can continue their domination are members of the Southeastern Dredge Owners Association, of which Norfolk Dredging Co. is a member. I might add, it was a founding member of this organization.

Let me make it very clear that no one can purport to represent the views of that association because various members disagree sharply on this issue. Our company and several other members of the association do not favor raising the size standard to perpetuate the protective market created for a few firms.

Now, although raising the size standard would help Norfolk Dredging Co. by allowing it again to compete under restricted competition, I think it is time for the medium-sized firms to move out of the set-aside program.

There can be little dispute that these firms can compete outside of the set-aside program, as shown very effectively by the bidding results for the few dredging procurements in the southeastern United States that are not set-aside.

If the program is administered so as to remove the protection for these selected few firms, the multitude of small firms in the industry will gain the benefit of restricted competition which was the original intent of the set-aside program.

The combination of the unreasonably high size standard and the inflexible nature with which the Corps of Engineers in our region restricts competition on nearly every dredging procurement has resulted in a program that incorporates all of the evils of restricted competition, yet achieves few if any of the benefits intended for truly small businesses.

The fact is that a size standard of approximately $5 million would go far toward remedying the current problems in the program. Dredging procurements, appropriate for the middle size and large firms that gross over $5 million, would then be open to the competition of the marketplace and thereby permit the Government to obtain dredging services on a competitive basis for the benefit of the taxpayer and the industry.

Dredging procurements that can be performed by firms with average yearly earnings of less than $5 million, which would still be a large number of procurements, would be reserved for such small firms.

The truly small firms would then have the opportunity to bid or compete against firms their own size and not be faced with the hopeless task of competing against sophisticated firms with average earnings approaching $9.5 million a year.

Now, in the past few months, Norfolk Dredging Co. has been in contact with many small dredging firms on the eastern seaboard. As a matter of fact, there is more interest among the small dredging firms than the SBA would lead you to believe. Our contacts have shown that there are many, many small firms who are seeking an opportunity to participate and benefit from the small business program.

You will notice from appendix A to my written remarks, I include a list of about 15 dredging contractors that have asked us to convey their support for a lower size standard. These letters should be viewed in conjunction with the many comments received by the SBA on the proposed size standard, comments, which I understand, were overwhelmingly in favor of a lower size standard.

A dredging size standard of $5 million would in several ways improve the operation of the small business set-aside program. First, it would allow small firms to compete for set-aside jobs against other small firms.

Second, it would encourage the corps, rather than maintaining its automatic set-aside policy in certain areas of the country, to consider whether a particular job is right for small business plant and equipment, or instead, is in need of medium or large business participation.

Third, it would remove the incentive for medium-size firms to pursue SBA protection from the cradle to the grave.

Fourth, it would allow open competition to establish the true cost in the marketplace by permitting the corps to advertise for specialized procurements on an unrestricted basis.

I should add that allowing such procurements to be made under open competition would in no way threaten existence of medium-size firms.

Medium-size firms are regional in nature and have geographic advantages that have allowed them to compete very successfully against the giants of the industries, as I stated in the past, and, would no doubt allow them to continue to compete successfully once they graduate from a set-aside program and leave the program to the Nation's small dredging firms.

Now, I appreciate this opportunity to submit my views. I don't think my statements will come as any surprise to the SBA or the Corps of Engineers. For those who are truly familiar with the dredging industry know that such conditions have existed for many years. Nevertheless, it makes it all the more important that this committee do what it can to influence the SBA to set a reasonable size standard for the dredging industry.

I trust that I will be able to answer any questions you or the staff might have.

[Mr. Ware's prepared statement, with attachments and responses to questions of the subcommittee, follows:]

PREPARED STATEMENT OF GUILFORD D. WARE, PRESIDENT, NORFOLK DREDGING CO.

I appreciate this opportunity to discuss with you the issue of small business size standards as it applies to the dredging industry. I am associated with Norfolk Dredging Company (NDC), which for many years was a "Small Business Concern" as defined under the Small Business Set-Aside Program. Recently it graduated and now it does not qualify as a small business. Since I am familiar with the program, I want to comment on some of the critical problems that have resulted from the manner that the Set-Aside Program has been administered in the Dredging Industry. Norfolk Dredging is acutely affected by the small business size standard, because practically all of the dredging contracts in the company's traditional operating area of Maryland thru Florida are restricted to bidding by Small Business Concerns. If the program continues to be used as a vehicle to restrict competition the future of Norfolk Dredging is limited. This is a sad commentary for a company holding the second oldest active contractor's license in the Commonwealth of Virginia.

Government procurement creates the market for dredging. It is the primary, and in many instances, the only customer. In the Mid-Atlantic and Southeastern United States the Corps of Engineers and all other agencies that require dredging services, restrict competition on virtually every dredging procurement. Accordingly, the firms excluded by the size standard cannot compete with the few protected middle-size firms and are thereby excluded from the market. Consequently, the few firms that enjoy the prefered protection face little, if any, competition.

Having observed that the small concerns are effectively denied the right to participate in the program, Norfolk Dredging Company believes that the size standard for dredging should be set at a level that will benefit the truly small business. This may be accomplished by establishing the size standard in an amount that does not exceed $5 million average annual earnings. An examination of the dredging contracts awarded in the United States over the last several years reveals a remarkably consistent pattern. A select group of the middle-size, in reality large firms, classified as "Small Business Concern" protected by the size standard effectively dominate the set aside market (See Exhibit A). The practice is permitted, if not encouraged in the Southeast and the Mid-Atlantic, by the SBA and the procuring agencies, so that they will not be required to deal with the truly small firms that are unable to compete with such protected middle-size firms. As long as the $9.5 million size standard is retained, the select few firms will continue to dominate the set-aside dredging program, to the exclusion of the truly small businesses.

Norfolk Dredging Company is the only dredging company in the United States to admit that it graduated from the umbrella of protection of the small business size standard. Since that time we have found that the high size standard, in conjunction with the Department of Defense policy of restricting competition on every procurement, has denied us the right to bid on Federal government procurements in the Southeast and Middle Atlantic states. Meanwhile, the same small group of four or five firms strive to remain under the size standard and continue to dominate the market. Not suprisingly, it is these firms that are pressing the SBA to raise the standard so they can continue their favored status under the umbrella of protection that permits them to dominate the market.

These firms are members of the Southeastern Dredge Owners Association, of which NDC is also a member. Our company and several other members of the Association do not favor raising the size standard to perpetuate the protected market created for a few firms, even though a higher size standard may allow us to again compete under restricted competition Although it may be easy to advocate the increase of the standard, we know from experience that such a position is inherently wrong because companies such as ours and the other four or five medium-sized firms in the southeast are fully capable of competing in the open market. They have proven their capability by the competitive stance they have taken in the very few procurements that are not set-aside. It is apparent that they should no longer continue to dominate the set-aside program at the expense of the many small firms who could and should be allowed to participate in a program originally designed for their benefit.

You are probably well aware that the Corps of Engineers and the SBA favor and have been promoting a high size standard of $9.5 million, and, in some instances an amount up to $21 million. Such a standard permits the Corps to have its cake and eat it too. It can ostensibly help small business by restricting competition and at the same time get the experience of essentially large firms and obtain the advantage of large plant and equipment. By keeping the standard so that it protects the middle sized firms, it does not have to deal or be concerned with the emerging small business the act was designed to assist. Therefore, the Corps and the SBA have absolutely no motive to alter the small business program so as to actually help the small businesses. Only the SBA, or this Committee through its oversight of the SBA, can do something to really assist the small dredging firms.

A size standard of about $5 million would remedy this situation by forcing the SBA and the DOD to implement the set-aside program in a way which will, for the first time, address the needs of truly small business. Dredging procurements appropriate for the middle sized and large firms that gross over $5 million would then be opened to the competition of the market place and thereby permit the government to obtain dredging services on a competitive basis for the benefit of the taxpayer. Dredging procurements that can be performed by firms with average yearly earnings of less than $5 million would be reserved for such small firms. Such firms would then have the opportunity to bid or compete against firms their own size and not be faced with the hopeless task of competing against sophisticated middle sized firms with average annual earnings approaching $9.5 million per year.

In the last few months many of the small dredging firms on the eastern seaboard have been in contact with Norfolk Dredging Company to support a lower size standard. The letters of some of these companies did not go the the SBA last summer, because they were either unaware of the comment period or had so thoroughly abandoned hope of receiving help from the SBA that they felt submitting public comments would serve no useful purpose. Nevertheless, our contacts have shown that there are many, many small firms who are just seeking an opportunity to participate and thereby benefit by the small business program. By Appendix A to my written remarks I have attached a list of the dredging firms that have in the last few months asked us to support a lower size standard.

The requests of these companies as well as the large majority of companies that participated in the SBA comment period make a very clear statement - the present dredging size standard does virtually nothing to help small businesses and instead creates huge inequities in government dredging procurement.

The combination of the unreasonably high size standard set by the Small Business Administration (SBA), and the inflexible implementing requirements of the Defense Acquisition Regulation (DAR), has resulted in a program that incorporates all of the evils of restricted competition yet achieves few, if any, of the benefits intended for truly small businesses. We strongly believe that steps must be taken to rectify the dredging set-aside program.

The SBA's set-aside program as it applies to dredging achieves none of the intended goals of the Small Business Act. That Act states that a "fair proportion" of government contracts should be awarded to small businesses so as to allow them to gain competitive strength and to expand the nation's mobilization base. The SBA has recognized "that small concerns often are forced to compete with middle-sized as well as very large firms," and that, accordingly, size standards "for each industry should be established as low as reasonably possible to best serve small businesses and reflect the purposes of the Small Business Act." 47 Fed. Reg. 18992. In further recognition that the program should be in the nature of temporary assistance to small firms until they can fully compete on their own, the SBA has set forth in regulations that set-asides do not constitute a "cradle to grave" program. Instead, firms should strive to grow and "graduate" from the set-aside program. 13 C.F.R. 121.3-1(b)(a)(IV).

This central premise, however, has been ignored in the implementation of the Act in the dredging industry. Rather than establish the lowest reasonable size standard, the SBA has maintained a $9.5 million standard that protects the "medium-size" firms which has created a restricted market environment in which the "Small" businesses cannot compete. This is particularly true in the Southeast, where a group of 5-6 such firms for over a decade has garnered over 90% of all set-aside awards. (See Exhibit A) The many ligitimately small firms that earn under $4-5 million per year simply cannot compete with the larger, more efficient plant and equipment of the big "small" firms. (See Exhibit B) Two independent government-sponsored studies have revealed that the dredging size standard has never been a realistic one. In 1973 the congressionally-directed National Dredging Study recommended that the then-applicable standard of $5 million be reduced by half. Two years later a Corps-directed study recommended the then-applicable $9.5 million standard be reduced to $4 million. The SBA has never agreed with these independent studies. As a result, the handfull of medium-sized firms get far more than a fair proportion of government procurements, while the genuinely small firms get little or nothing.

As a result, a number of smaller firms have gone out of business; in contrast we know of no dredging firm above the $5 million gross receipts mark that has failed.

Predictably, the mid-sized firms have no incentive to graduate from the program. To do so would be to forfeit the right even to bid on dredging procurements, since large business has been almost totally excluded from the contracting process. As a consequence, a number of firms hover at the upper edge of the size standard and continue to prevent small firms from competing amongst themselves.

In addition, the implementing provisions of the DAR serve to perpetuate and compound the size standard error. The DAR does not really permit a Contracting Officer (CO) to exercise discretion in determining if various dredging projects should be advertised for unrestricted bidding, since the regulation directs a job be set aside if two small businesses plan to compete. Although a CO may refuse to set aside a job even if two prospective small bidders are present, on the ground that he cannot reasonably expect to receive reasonable bids, such a decision can be appealed on several levels by SBA representatives. The practical reality for a CO is that it is simpler to set aside any job attracting two small bidders and thereby avoid being disrupted by SBA or small contractor appeals.

Given the rigidity of the DAR, there is little question as to why the Corps would favor a dredging size standard that is out of proportion with the character of the industry. It allows the agency to take the DAR-required road of restricting competition by recieving bids from essentially protected so called "Small" firms. The SBA stated outright in its recent proposed size standards that DOD favors high size standards and that the SBA has attempted to accommodate that preference. 48 Fed. Reg. 20560. This reveals that the SBA is not concerned principally with improving the competitive position of small firms so much as with facilitating agency procurement activities. The set-aside program, especially in the dredging industry, thus becomes an end in itself without any regard to its original purpose.

The truly small dredging firms that are squeezed out from set-aside awards by the large "small" firms are not the only firms injured by the system. Because the Corps can set almost any job aside and still receive bids from functionally large firms, Corps Districts have little incentive to attempt to open a given job to unrestricted competition. Consequently, it is not unusual to see contracts in the $5,000,000.00 to $10,000,000.00 estimated cost range set-aside for bidding by Small Business only.

There is no reason for the set-aside program to benefit a select few medium size firms. Indeed, the history of the relatively few unrestricted procuements in the Southeast shows that these firms effectively compete on the open market. They have geographical advantages and cost advantages in that they are often non-union, low overhead operators.

The simplest and most efficient answer to the problem is to reduce the size standard to a level that effectively benefits the truly small firms in the industry such as a $4-5 million average annual revenue. Furthermore, Small Business dredging procurements should be restricted to contracts that do not exceed $500,000.00. This would (1) allow small firms to compete for set-aside jobs against other small firms; (2) encourage the Corps, rather than maintaining its automatic set-aside policy, to consider whether a particular job is ripe for small business plant and equipment or instead is in need of medium or large business participation; (3) remove the incentive for medium-sized firms to pursue SBA protection from the cradle to the grave; and (4) allow open competition to establish the true costs in the market place by permitting the Corps to advertise large or specialized procurements on an unrestricted basis. Such a change would require the Corps and the SBA to implement the Small Business Act that it will benefit small businesses in the dredging industry. At the same time, the change would eliminate favoritism and exclusion, as well as the unquantifiable increased costs to the taxpayers occasioned by restricted competition. In sum, it would allow all segments of the industry and the labor force to have an opportunity to participate in a free market for the benefits of government procurement.

We ask your assistance in achieving this step, or any other step, that would encourage the SBA and the Department of Defense to follow the purpose and objectives of the Small Business Act.

My statements will not come as a surprise to the SBA or the Department of Defense, for those who are truly familiar with or have had experience in the dredging industry know that such conditions have existed for many years.

Thank you very much for the opportunity to submit my views on this most important issue to the dredging industry, the Nation and more importantly to its taxpayer.

Respectfully Submitted

Guilford D. Ware

POSITION PAPER CONCERNING THE SMALL BUSINESS ADMINISTRATION'S MAY 6, 1983 PROPOSAL TO MAINTAIN A $9.5 MILLION SIZE STANDARD FOR DREDGING

The points below highlight the adverse consequences of a size standard that defines sophisticated, medium-sized firms as "small":

- The May 6 proposal marks a fundamental departure from small, struggling firms, in favor of larger firms with "sophistication in the procurement process."
- The $9.5 million dredging size standard has allowed five or six firms, which have hovered for almost a decade at the upper limit of the standard, to monopolize completely government set-aside awards. This domination has been particularly acute in the southeastern U.S., and comes at the expense (and in many instances, the financial failure) of well over 100 smaller dredging firms. These five or six firms have pursued every technical means to avoid exceeding $9.5 million, thereby depriving all smaller firms of set-aside benefits.
- The SBA has long ignored repeated and well-documented recommendations to lower the small business size standard for dredging to better fit the needs of legitimately small dredging firms throughout the country, including the 1973 Congressionally mandated National Dredging Study, which called for a size standard of $2-3 million. Even with a factor for inflation since 1973, the dredging size standard should not exceed $4-5 million.
- Medium-sized firms that have dominated the set-aside program at needless added expense to the public do not need the sheltered competition of a program designed by Congress for much smaller firms; they have demonstrated on repeated occasions the ability to compete successfully with larger firms.
- The recent SBA proposal to retain $9.5 million as an accurate gauge for "small" in the dredging industry disregards scores of public comments from firms in the industry that call for a more sensible standard in the range of $4-5 million.
- The Corps of Engineers, and particularly the South Atlantic Division, has compounded the size standard error by systematically restricting competition on the vast majority of dredging procurements, to the virtually exclusive benefit of the dominant medium-sized firms.

EXHIBIT A

Submitted with Statement of Guilford D. Ware of October 20, 1983 to House of Representatives--
Small Business Committee

List By Size of All Companies That Bid On Corps "Set-Aside" Dredging Contracts, (Set-Aside Awards Only) FY'76 Through FY'79

COMPANY (STATE)	(Total SB Awards In thousands of dollars)
Merritt Dredging (SC)	$ 17,985
Parkhill-Goodloe (FL)	16,340
Norfolk Dredging (VA)	14,997
Atkinson (VA)	14,971
J. A. LaPorte (VA)	12,896
Cottrell Engineering (VA)	9,054
Wilkinson-Jenkins (FL)	7,290
King Fisher Marine (TX)	5,682
Garrett (TX)	3,372
Loyd W Richardson (TX)	2,563
Trans-State Dredging (FL)	2,546
Mike Hooks (LA)	1,614
Spickard Enterprises (NJ)	1,419
Lakeshore Construction (MI)	1,417
Zenith Dredging (MN)	1,179
Hendry Corporation (FL)	1,149
Quigg Bros.-McDonald Inc. (WA)	1,086
Barnegat Bay Dredging Co. (NJ)	1,006
Hanson Dredging, Inc. (FL)	968
W. G. Jaques Co. (IA)	750
Luedtke Engineering Co. (MI)	715
Gibson & Cushman Dredging Corp. (NY)	687

EXHIBIT A

Page 2

Submitted with Statement of Guilford D. Ware of October 20, 1983 to House of Representatives--Small Business Committee

COMPANY (STATE)	(Total SB Awards In thousands of dollars)
Supermarine, Div. of Liles (NC)	672
K. P. & B. Company (NJ)	621
American Inland Marine Pipeline (TX)	599
Nehalem River Dredging (OR)	573
R & D Watson, Inc. (CA)	516
Shirley Contracting Corp. (VA)	488
Prosperity Dredging Company (FL)	407
Harbor Tug & Barge, Inc. (OR)	399
Dalton Williamson, Inc. (LA)	372
Oklahoma Dredging Co. (OK)	372
Arkansas Valley Dredging Co. (AR)	322
Northampton Dredging Co. (VA)	320
C-Way Construction Co. (MI)	277
R. O. Contracting Co. (FL)	253
The King Company (MI)	246
A. Kertzman Dredging Co. (MN)	243
J. M. Furr Landscaping (NC)	235
L. W. Matteson Crane Serv. (IA)	209
Diamond Mfg. Co. (GA)	192
Chris Berg Inc. & Assoc. (WA)	168
John R. Liles III (NC)	148
Olin Jones Sand Co. (CA)	144

EXHIBIT A

COMPANY (STATE)	(Total SB Awards In thousands of dollars)
Sandau Dredging Co. (OR)	127
Joseph Zanghi (NY)	124
Clinton River Equip. & Leasing (MI)	123
C. D. Murray Co., Inc. (NY)	110
John C. Meagher & Sons (MI)	102
Fred J. Miller, Inc. (MD)	88
Cork Construction Corp. (DE)	82
Brown Construction Co. (AK)	80
Klochko Equip. Rental	72
Mini Dredge, Inc. (MN)	69
A. H. Powers, Inc. (WA)	65
Joe Bernert Towing Co. (OR)	61
John R. Hansen (AK)	61
J. W. Jenkins, Inc. (CT)	56
Gooslin Pumping & Pipe Cleaning (PA)	53
Gallagher Marine Const. Co. (MI)	47
Durocher Dock & Dredge Co. (MI)	43
Aztec Development Co. (FL)	13
Nemer Constr. Co. (AL)	13
J. T. Vieira Co. Beardstown (IL)	12
American Construction Co. (WA)	0
Aquatic Services, Inc. (MI)	0

COMPANY (STATE)	(Total SB Awards In thousands of dollars)
Atec Contracting Corp. (VA)	0
BDR Construction (OR)	0
Barry Constr. Co. (MN)	0
Bay-Con Industries, Inc.	0
Brusco Booming & Dredging (WA)	0
Bultema Dock & Dredge Co. (MI)	0
C. D. Perry & Sons, Inc. (NY)	0
C. H. Barco Constracting Co. (FL)	0
California Dredging Co. (CA)	0
Coast Marine Constr. Inc. (OR)	0
Continental Dredge & Marine (IL)	0
Curtis Wright Const. Co.	0
D. J. McQuestion & Sons., Inc.	0
Desco Constr. Co., Inc. (MN)	0
Dunbar & Sullivan Dredging (MI)	0
E & E Construction (MI)	0
Eastern Contractors, Inc. (SC)	0
Environmental Dredging, Inc. (NJ)	0
Espedal Construction Engineering (OR)	0
Falcon Marine Co. (IL)	0
G. D. Knickerbacker, Inc. (LA)	0
George Miller Co. (MI)	0
Greater Cincinnati Marine Serv. (KY)	0
Grillot Co., Inc. (LA)	0

COMPANY (STATE)	(Total SB Awards In thousands of dollars)
H. Schickel General Contracting (NY)	0
H. D. Hunt (MD)	0
Hansen & Co. (AR)	0
Higgerson Buchanan (VA)	0
Howard Constr. Co., Inc. (LA)	0
J & R Construction Co. (OH)	0
Johnson Dredging Corp. (TX)	0
K. G. Marks, Inc.	0
Marine Construction & Dredging (OR)	0
Marine Construction & Engineering (CA)	0
Marine Constructors (MI)	0
Marine Leasing Co. (WA)	0
Mead Bros. Excavating	0
Michigan Dredging Co. (MI)	0
Middle Atlantic Dredging Corp. (FL)	0
Midwest Dredging (MN)	0
Mil-Pak Co. (MI)	0
Mobile Dredging & Pumping (PA)	0
Monongahela and Ohio Dredg. (PA)	0
Palmberg Const. Co. (OR)	0
Powell Brothers, Inc. (FL)	0
R. H. McCracken Const. Co. (MI)	0
Ramstad Construction Co. (AK)	0
Robers Dredge Inc. (WI)	0

COMPANY (STATE)	(Total SB Awards In thousands of dollars)
Roen Salvage Co. (WI)	0
Rose Marine of Virginia, Inc. (VA)	0
Sands Construction Co. (VA)	0
Sayler Marine Corporation (GA)	0
Seaman Marine Company (NJ)	0
Shellmaker, Inc. (CA)	0
Shepard Marine Const. (MI)	0
Stauffer Construction Co. (MD)	0
Sun Contracting	0
Thomas J. Crooks, Jr. (VA)	0
Ulland Brothers, Inc. (MN)	0
WEST-E-R-N & Associates, Inc. (AK)	0
Western Marine Construction Co. (WA)	0
William W. Stender Marine Cont. (MI)	0

TOTAL NO. OF COMPANIES	128
TOTAL AMOUNT OF AWARDS	$128,863,000.00

COMPANY NAME	SIGNED BY & RECOMMENDED AMOUNT
Flyin Goose Corp. Post Office Box 600 North East, Maryland 21901	Robert C. Efford Vice President $5. Million
Bloomingdale Construction Co. Inc. Queenstown, Maryland 21658	Edwin L. Cole Vice President $5. Million
Smith Brothers, Inc. 4702 Woodfield Road Galesville, Maryland 20765	Kenneth W. Smith President $3. Million
Gibson & Cushman Dredging Corp. 38 Homan Avenue Bay Shore, New York 11706	Malvin Gamborg President $5. Million
Paz Brothers, Inc. 103 Logan Lane Bridgeport, New Jersey 08014	John Paz President $5. Million
Marcol Dredging Co. Post Office Box 71287 Charleston, South Carolina 29405	Joseph M. Lavell President $5. Million
Charce Construction, Inc. 403 N. Adams Street Havre de Grace, Maryland 21078	Robert L. Wood President $2. Million
L & H Construction Co., Inc. Route 13 North, P.O. Box 1742 Salisbury, Maryland 21801	W. R. Harris, Jr. President $5. Million
Frenz Enterprises 904 S. Market Avenue Fort Pierce, Florida 33450	George L. Frenz President $5. Million
Sea Harvest Inc. 985 Ocean Drive P. O. Box 555 Cape May, New Jersey 08204	Daniel Cohen Executive Officer $5. Million

EXHIBIT B

Submitted with Statement of Guilford D. Ware of October 20, 1983 to House of Representatives--
Small Business Committee

COMPANY NAME	SIGNED BY & RECOMMENDED AMOUNT
Spickard Enterprises, Inc. 390 Beaumont Avenue Tuckerton, New Jersey 08087	James M. Spickard President $3. Million
Tom Shaw, Inc. 8215 North Straits Hwy. Cheboygan, Michigan 49721	Tom Shaw President $4. Million
Cecil Construction Corp. P.O. Box 722, Manor Branch New Castle, Delaware 19720	Frank A. Bush, Jr. President $5. Million
Aztec Development Co. P.O. Box 3348 Orlando, Florida 32802	Troy M. Deal President $2. Million
Southern Maryland Dredging, Inc. Woodside Farm Anne Arundel Co. Friendship, Maryland 20758	Oswald Wilson, Jr. President $5. Million
Barnegat Bay Dredging Co. Box 336 Harvey Cedars, New Jersey 08008	Arnold M. Hill President $5. Million

EXHIBIT B

FLYIN GOOSE CORP.
P.O. BOX 600
NORTH EAST, MARYLAND 21901
(301) 287-6700

September 19, 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

RE: Dredging Industry Size
Standard
SIC 1629

Gentleman:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately five million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly yours,

FLYIN GOOSE CORP.

Robert C. Efford

Robert C. Efford
Vice President

Bloomingdale Construction Company, Inc.
Marine Contractors
Queenstown, Maryland 21658
Office Phone 301/827-8734

W. EDWIN COLE, SR., PRES.
RESIDENCE 827-8984

EDWIN L. COLE, V. PRES.
RESIDENCE 758-0373

September 19, 1983

Norfolk Dredging Company
P. O. Box 1706
Chesapeake, Virginia 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

RE: Dredging Industry Size Standard
SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately five million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly yours,

BLOOMINGDALE CONSTRUCTION CO., INC.

Edwin L. Cole

Edwin L. Cole
Vice President

ELC/bbp

Contractors
Since 1920

Smith Brothers, INC. 4702 WOODFIELD ROAD, GALESVILLE, MARYLAND 20765 · 301 867-1818

September 19, 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

Re: Dredging Industry Size Standard SIC 1629

Attention: Mr. Russell J. Thorne
Executive Vice President

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately three million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly yours

SMITH BROTHERS, INC.

Kenneth W. Smith
President

KWS:w

MARCOL DREDGING CO.

5630 ATTAWAY AVENUE • NORTH CHARLESTON, S.C. 29406 • PHONE [803] 747-2177

JOHN F. HALL
JOSEPH M. LAVELLE

MAILING ADDRESS:
P. O. BOX 71287
CHARLESTON, S.C. 29405

September 19, 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

RE: Dredging Industry Size Standard
SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately five million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly your,

MARCOL DREDGING COMPANY

Joseph M Lavelle

Joseph M. Lavell
President

JML/nv

(609) 467-0123 (609) 467-0170

PAZ BROTHERS, Inc.
Contractors
103 LOGAN LANE, BRIDGEPORT, N. J. 08014

SEPTEMBER 20, 1983

NORFOLK DREDGING COMPANY
POST OFFICE BOX 1706
CHESAPEAKE, VIRGINIA, 23320

ATTN: MR. RUSSELL J. THORNE
EXECUTIVE VICE PRESIDENT

REF: DREDGING INDUSTRY SIZE STANDARD SIC 1629

GENTLEMEN:

YOU MAY FEEL FREE TO PRESENT THIS LETTER AND PRESENT OUR POSITION TO WHOMEVER YOU PLEASE.

AS A SMALL BUSINESS DREDGING CONTRACTOR, WE ARE OPPOSED TO ANY INCREASE IN THE DREDGING SIZE STANDARD. THE PRESENT DOLLAR STANDARD OF 9.5 MILLION DOLLARS IS TOO HIGH. A REDUCTION IN THE STANDARD TO A LEVEL OF APPROXIMATELY FIVE MILLION DOLLARS WOULD BE BENEFICIAL TO MANY SMALL COMPANIES SUCH AS OURS AND INCREASE OUR CHANCES OF WINNING CONTRACTS AGAINST THE "MIDDLE-SIZED" COMPANIES WHO ARE LOBBYING FOR A SIZE STANDARD INCREASE.

VERY TRULY YOURS,

JOHN PAZ
PRESIDENT

Gibson & Cushman Dredging Corp.

38 HOMAN AVENUE, BAY SHORE, N. Y. 11706
Telephone: Suffolk - 665 - 0353

September 20, 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

Att: Mr Russell J. Thorne
Executive Vice President

Re: Dredging Industry Size
Standard, SIC 1629

Gentlemen:

As 'Small Business' dredging contractors, we are opposed to the present size standard of 9.5 million dollars. We feel this figure is much too high and should be reduced to five million dollars. There are many small companies, like ourselves, who would have a better chance of being successful bidders, if they didn't have to compete against "middle-sized companies that are lobbying for a size standard increase.

Please feel free to present this letter and our position to whomever you please.

Very truly yours,

GIBSON & CUSHMAN DREDGING CORP.

Malvin Gamborg

Malvin Gamborg
President

MG:jl

September 21, 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

RE: Dredging Industry Size Standard
SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately five million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly yours,

Daniel Cohen
Executive Officer

SEA HARVEST INC
985 OCEAN DRIVE ● P.O. BOX 555 ● CAPE MAY, N.J. 08204 ● 609-884-3000

FRENZ ENTERPRISES, INC.
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President

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800-432-6227

NATIONAL WATS
800-327-6636

September 21, 1983

Norfolk Dredging Company
110 N. Centerville Turnpike
Post Office Box 1706
Chesapeake, Virginia 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

RE: Dredging Industry Size Standard
SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor (of approximately 3,000,000.00 dollars a year. We are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to the level of approximately five million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly yours,

FRENZ ENTERPRISES, INC.

George L. Frenz, President

George L. Frenz, President

GLF/krr

Har-Ce Construction INC.

GENERAL CONTRACTORS
301-939-2837
575-6711

403 N. Adams St.
Havre de Grace, Md. 21078

22 September 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

ATTN: Mr. Russell J. Thorne
Executive Vice President

RE: Dredging Industry Size
Standard SIC 1629

GENTLEMEN: You may feel free to present this letter and our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately 2 million dollars would be very beneficial to many small companies such as ours by increasing our chances of winning contracts against the "middle-sized" companies who are presently lobbying for a size standard increase.

Sincerely,

HAR-CE CONSTRUCTION, INC.

Robert L. Wood
President

RLW/c

L & H CONSTRUCTION CO., INC.
ROUTE 13 NORTH, P. O. BOX 1742
SALISBURY, MARYLAND 21801
301-546-5711

22 September 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

RE: DREDGING INDUSTRY SIZE STANDARD
SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately 5 million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Yours very truly,

L & H CONSTRUCTION CO., INC.

W. R Harris Jr. kp

W. R. Harris, Jr.
President

WRHjr/kp

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TUCKERTON, N. J. 08087

(609) 296-8165

Norfolk Dredging Co.
Post Office Box 1706
Chesapeake, Virginia 23320

Attn: Mr Russell J. Thorne
Executive Vice President

Re: Dredging Industry Size Standard
SIC 1629

Gentlemen:

You may present this letter to reflect our position on the Size Standard to whomever you please.

As a small buisness dredging contractor, we are opposed to any increase in the dredging size standard. The present standard is already too high. A level of three million dollars would better serve the true small buisness dredging contractors, and keep the small buisnesses in buisness.

Sincerely,
James M. Spickard
President

Building Contractors Exclusively on Our Own Bayfront and Lakefront Property

TOM SHAW, INC.
8215 NORTH STRAITS HWY. • CHEBOYGAN, MICHIGAN 49721

September 22, 1983

NORFOLK DREDGING COMPANY
PO Box 1706
Chesapeake, VA 23320

Attn: Mr. Russell J. Thorne
Executive Vice-President

RE: DREDGING INDUSTRY SIZE STANDARD SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately four million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly yours,

Tom Shaw
President

TS:gy

CECIL CONSTRUCTION CORP.
GENERAL CONTRACTORS
103 Courthouse Plaza • Elkton, Maryland
1-301-398-3511

FRANK A. BUSH JR.
President

Mailing Address: P. O. BOX 722
MANOR BRANCH
NEW CASTLE, DE 19720

September 26, 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

RE: Dredging Industry Size Standard
SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately five million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly yours,

Cecil Construction Company

Frank A. Bush, Jr.
President

AZTEC DEVELOPMENT CO.

September 29, 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

RE: Dredging Industry Size Standard
SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately two million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly yours,

AZTEC DEVELOPMENT CO.

Troy M. Deal
President

TMD:bp

STATE CERTIFIED GENERAL CONTRACTOR / CGC 013023
P. O. BOX 3348 ORLANDO, FLORIDA 32802 / TELEPHONE 305 / 849 - 6420

BARNEGAT BAY DREDGING CO.
INCORPORATED

BOX 336, HARVEY CEDARS, N.J. 08008 ● (609) 494-5913

3 October, 1983

Norfolk Dredging Company
Post Office Box 1706
Chesapeake Va. 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

Re: Dredging Industry Size Standard SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is to high. A reduction in the standard to a level of approximately five million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle sized" companies who are lobbying for a size standard increase.

Very truly yours,

Barnegat Bay Dredging Company Inc.

Arnold Hill,
President

ADH:mch

DREDGING ⚓ MARINE CONSTRUCTION

SOUTHERN MARYLAND DREDGING INC.
WOODSIDE FARM
FRIENDSHIP, ANNE ARUNDEL CO.
MARYLAND 20758

Norfolk Dredging Company
Post Office Box 1706
Chesapeake, Virginia 23320

Attention: Mr. Russell J. Thorne
Executive Vice President

RE: Dredging Industry Size Standard
SIC 1629

Gentlemen:

You may feel free to present this letter and present our position to whomever you please.

As a small business dredging contractor, we are opposed to any increase in the dredging size standard. The present dollar standard of 9.5 million dollars is too high. A reduction in the standard to a level of approximately five million dollars would be beneficial to many small companies such as ours and increase our chances of winning contracts against the "middle-sized" companies who are lobbying for a size standard increase.

Very truly yours,

SOUTHERN MARYLAND DREDGING INC.

Oswald Wilson Jr. President

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NORFOLK DREDGING CO.

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NORFOLK DREDGING COMPANY
110 NORTH CENTERVILLE TURNPIKE
POST OFFICE BOX 1706
Chesapeake, Virginia 23320

Telephone
(804) 547-9391

Branch Office and Yard
3415 S.W. 96th Street
Stuart, Florida 33497

October 28, 1983

The Honorable Parren J. Mitchell
Chairman
House Small Business Committee
2361 Rayburn House Office Building
Washington, D. C. 20515

RE: Size Standard Hearing; October 20, 1983

Dear Congressman Mitchell:

At the conclusion of the October 20 Hearing I was asked to give a written response to the enclosed list of questions. I trust that the Committee will find the enclosed responses to be helpful.

I would be interested in seeing the responses that were given to similar questions directed to the other witnesses of the panel.

I appreciate the time and interest that you and your staff dedicated to the issue of small business size standards. Please relay my special thanks to David Robinson of your staff, who, I believe, was instrumental in making the hearing an informative experience for everyone.

Please let me know if you, your staff or anyone associated with the Committee have any additional questions or desire any assistance in reaching a reasonable solution to this issue that is so vital to the truly small dredging concerns.

Sincerely yours,

Guilford D. Ware

GDW:cg

cc: with enclosures

B-343C Rayburn Bldg.
Washington, D. C. 20515
Attention: Ms. Christine Russell

NORFOLK DREDGING COMPANY ANSWERS TO "QUESTIONS OF MINORITY MEMBERS OF THE SMALL BUSINESS COMMITTEE" PRESENTED AT THE CONCLUSION OF THE SIZE STANDARD HEARING ON OCTOBER 20, 1983

Q. 1. Are your company's gross receipts slightly or greatly above SBA's proposed $9.5 million size standard?

A. 1. The average gross receipts are significantly above SBA's proposed $9.5 million size standard.

Q. 2. When did you become a large dredging company?

A. 2. Norfolk "graduated" in 1982. At that time, we were faced with a very difficult choice as to whether to artificially limit our growth through splits, spin-offs, or other contrivances, or, on the other hand, to honestly acknowledge that we had grown to the point where we could compete without protected status. We decided to be honest and, as a result, find ourselves virtually precluded from competition in Corps projects in our home port and our traditional market in the Southeast from Maryland through Florida. If the size standard is substantially raised, we may be forced to reassess our position and return to the financially rewarding but ethically unpalatable position of having a special protected status, which we know should be unnecessary and unjustified in terms of business realities.

Q. 3. Are you affiliated with any other companies? Please explain.

A. 3. No

Q. 4. How much dredging and construction-related dredging business have you done with the Federal government during the past five years?

A. 4. Average dollar amount of Federal government dredging work over the past five years has been approximately Eleven Million dollars per year.

Q. 5. I understand that a few years ago a group was formed known as the "Dredging Industry Size Standards Committee." Are you a member of or are you cooperating with this committee?

A. 5. We are not now nor has Norfolk been a member of the "Dredging Industry Size Standards Committee"

Q. 6. When was the Committee formed? For what purpose? How long have you been a member?

A. 6. Since we are not a member, we do not know when the Dredging Industry Size Committee was formed and for what purpose. We understand, however, that the Dredging Industry Size Standards Committee is an informal coalition of dredging companies of all sizes that apparently agree that:

(a) Dredging companies capable of competing on an unrestricted basis should be given the opportunity and be required to compete in the open unrestricted market; and

(b) Truly small companies that need the set-aside program to enter the industry and to survive should be provided the benefits of the Small Business Act including insulation from competition, not only from the large companies in the industry, but also the middle size concerns capable of graduating and competing in the market place but, elect not to do so. It is these middle size concerns that dominate the set-aside program to the exclusion and detriment of the truly small companies.

We support these basic premises. On various occasions we have made our views known and to this extent it may be said that we support the Committee's objectives. As previously stated, we are not a member of the Committee, and therefore, we are not familiar with its financial arrangements, the membership list, or charter. We suspect that such information will be made available to anyone who may inquire. It seems to us, however, that the real issue is whether the Committee's basic premises are correct and broadly supported by a representative broad segment of the companies that make up the Dredging Industry.

Q. 7. According to a petition filed with SBA on behalf of the "Size Standards Committee," your committee is composed of 15 small and 7 large companies. Would you please name the 7 large companies?

A. 7. Since Norfolk Dredging Company is not a member, we do not know.

Q. 8. How much money has been spent by the "Committee" since its formation?

A. 8. Since Norfolk Dredging Company is not a member, we do not know.

Q. 9. How have the costs of the "Committee" been defrayed? That is, what expenses have been borne by large companies and what expenses have been borne by small companies?

A. 9. We do not know. We can only assume that the members or those affiliated pay or contribute on the basis of their size or ability-to-pay. As a general rule the broad based organizations in the Dredging Industry have dues, assessments, etc. based upon size and ability-to-pay.

Q. 10. What benefits do large companies expect to derive from membership on the "Committee?"

A. 10. Since we are not a member we cannot speak for members of the Committee. We know that Norfolk Dredging Company is frustrated by a system that excludes it from procurements which, as a practical matter, have become the exclusive preserve of a few middle sized firms that have shown themselves to be fully capable of competing on an unrestricted basis. We know that the truly small concerns are tired and discouraged when they see set-asides dominated by a few firms, which they perceive to be giants and without the need of the protection of the Small Business Set Aside Program. This appears to be a genuine concern that should attract the interest of the public.

Q. 11. Did you oppose the $9.5 million size standard when it was promulgated in 1975? Please explain your reasons.

A. 11. Norfolk Dredging Company did not oppose the $9.5 million standard in 1975 because at the time it did not appear to be in our business interests to do so . We supported the size standard in the belief that it would give firms like ours sufficient room to grow before graduating from the program, and would leave such firms in satisfactory condition to compete with large businesses. In 1975 our firm and other mid-sized firms informally visited the SBA and requested the SBA to raise the standard to $9.5 million. To our knowledge there was no industry analysis that took place and none of the small dredging firms in the country were aware of what was taking place.

It has become clear in the intervening eight years, however, that: (1) with the exception of Norfolk Dredging Company, those firms that have benefited from the set-aside program are only looking to maintain the set-aside relationship at the expense of small business, instead of entering the unrestricted market; and (2) we know by experience that dredging firms grossing between $5.0 and $9.5 million are very capable of competing in open competition. Such firms, therefore, should "graduate" and the program should be placed in line with the facts of the industry and in keeping with the intent and purpose of the Small Business Act.

Q. 12. According to the SBA, in fiscal years 1980-1981 the Corps of Engineers awarded $487 million, or 71% of its dredging contracts to large dredging companies. How much will the large dredging companies' percentage of contract dollars increase if the current size standard remains at $9.5 million?

A. 12. The large dredging companies' percentage of contract dollars will increase only slightly if the size standard remains at $9.5 million. In fact, their percentage will not increase significantly if the size standard is reduced to $5.0 million. This is because, as shown by the Corps of Engineers bid abstracts for the last eight years, dredging firms grossing between $5.0 and $9.5 million are very well equipped and have the capabaility of competiting with large dredging companies. These medium-sized companies are regional in nature and thus (1) have geographic advantages, as translated into mobilization costs, over large dredging companies; and (2) have dredging equipment well-tailored to the dredging needs of their regions. Thus, although medium-sized firms may not be able to bid on contracts at the same high profit level as they do in the set-aside program, they will be, and have always been, able to compete effectively and to maintain market shares.

The question itself illustrates the misguided rationale used by those who attempt to justify a higher standard. The question focuses on "percentages" rather than on an accurate definition of small dredging firms (which are the firms that the government should assist in its set-aside program). If "percentages" are the goal, then of course the SBA should set a size standard as high as possible to include big firms and thereby allow a greater percentage of government contracts to go to "small" dredging firms. If, instead, the program has a purpose beyond mere appearances, then it should set a standard that allows small firms to compete with small firms, and medium and large firms to compete among their own in the open market.

Q. 13. It is my understanding that large dredging companies own and operate very large and sophisticated pieces of equipment. What is the cost of a 27 inch cutterhead dredge, including attendant pipeline, derrick, work boats, barges and other related equipment? What is the cost of a hopper dredge?

A. 13. Even though Norfolk Dredging Company does not own a dredge anywhere near as large as a 27-inch cutter head dredge, we estimate or guesstimate that such equipment would cost ten to fifteen million dollars. Similarly, Norfolk Dredging Company does not own a hopper dredge. We estimate or guesstimate, nevertheless, that the cost of an average or moderate size hopper dredge will also run in the ten to fifteen million dollar range. We note, however, that hopper dredges vary in size, as shown by the fact that Mr. Jones of California Dredging Company testified at the October 20 hearing that his company owns a hopper dredge, even though his firm grosses less than $3. million dollars per year.

Q. 14. (follow-up to previous question) If the dredging industry size standard is not raised, many dredging companies presently classified as small companies will soon be reclassified as big business and will thereby be forced to compete on an unrestricted basis for dredging contracts. Where will these companies acquire the capital to purchase the equipment necessary to compete with large companies?

A. 14. The question cannot be answered as written because it incorporates several misconceptions about the dredging industry. First, a refusal to raise the dredging industry size standard will not force "many" dredging companies to graduate from the small business program. As shown by comments received by the SBA, only approximately ten middle-size dredging companies support a higher standard. Although these companies, or, some of them, may graduate, and not qualify to bid procurements under the set-aside program, they will continue to be considered middle-size concerns. Because there are 100-150 smaller firms in the industry, the absolute number of firms that may be reclassified is shown to be rather low and a very small percentage of the industry.

The second misconception of the question is that companies graduating from the program would have to acquire capital to purchase new equipment to compete with large companies. As mentioned, and as shown by Corps bid abstracts, these medium-sized companies have competed and are now competing very effectively. As stated by Mr. Hull of Atkinson Dredging Company in the hearings on October 20, in some cases a smaller dredge is better suited for a particular job and thus more cost-effective than a larger dredge. More importantly, however, these firms already have relatively large plant and equipment which, coupled with their versatility, regional and geographic advantages, allow them to compete. Thus, the assumption that these firms must acquire new equipment to compete with large companies is misplaced.

OBSERVATION:

We note that the Southeastern Dredge Owners Association has attacked the legitimacy of some of the firms supporting a reduced size standard.

As one of the original and founding members of the Southeastern Dredge Owners Association we must point out that:

1. It has no Charter, Articles of Association or By-Laws.
2. It has no formal application or procedure for membership, required dues or membership fees.
3. It does not have any regularly scheduled meetings or standing committees.
4. The membership is composed primarily of middle-size dredging concerns with headquarters in the Southeastern states of Virginia, South Carolina and Florida.

Mr. MITCHELL. Thank you very much for your testimony and I do have some questions. I think it is best, though, to sort of hold my questions until we hear from all the panel members.

Is there a representative of SBA still in the room?

Good.

Is there a representative from the Corps of Engineers present?

Good. OK.

Thank you.

Mr. Hill, why don't we hear from you next?

TESTIMONY OF ARNOLD D. HILL, PRESIDENT, BARNEGAT BAY DREDGING CO.

Mr. HILL. Mr. Chairman, I am a small dredging contractor from Harvey Cedars, N.J. My name is Arnold Hill. I very much appreciate the invitation to testify here today. I am president of Barnegat Bay Dredging, which is located in Harvey Cedars, N.J.

I am testifying on behalf of over 20 small dredging companies, all of whom are extremely interested in the development of an appropriate size standard for dredging. These firms have been involved in this effort for 4 years now, and I have personally testified before Congress or in regional hearings of the SBA on three occasions.

Throughout this time we have urged the SBA to reduce the present standard to a level that would benefit the small dredging firms in the country. To help the committee understand why the present standard is of little use to small dredging businesses, I would like to briefly explain the nature of our business.

Dredging is a capital-intensive industry, in which efficiencies turn on the size of the dredge used, not the number of employees.

The larger dredges owned by firms grossing $9 to $9.5 million annually are significantly more productive than the small dredges. Small dredges are owned by firms grossing $1 to $4 million annually, such as mine. Although small firms such as mine are capable of performing contracts in excess of $1 million and are capable of doing so at a reasonable price to the Government, we are incapable of effectively competing with large dredges owned by the much larger firms near the $9.5 million mark.

The present size standard does nothing to increase the competitive strength of small firms. This error is compounded by the fact that the industry as a whole is largely dependent for Government procurement for its market.

It is impossible for small firms to grow and compete with the large firms if the Government does not operate the small business program in a manner designed to help small businesses. One would expect the SBA to recognize that the dredging size standard would have to be much lower than the $9.5 million in order for the agency to manifest concern for small dredging businesses.

In the midseventies, the SBA received two independent studies which proved that the present size standard is far too large. One suggested that the size be reduced by half and the other suggested it be reduced $2 million to $3 million. However, the SBA ignored the conclusions of these studies. I might add that if an inflation factor were applied to the $2 million to $3 million standard recommended to the SBA several years ago, the current standard would be near $5 million at this date.

In a further attempt to show the SBA how the set-aside program has been functioning in the dredging field, the Dredging Industry Size Standard Committee, the group of dredging contractors which I am representing here today, prepared a report for the SBA based on Corps of Engineers dredging procurements for a 4-year period.

We showed that during that period, over 80 percent of the money spent by the corps for dredging under the set-aside programs went to less than 8 percent of the small business firms that competed during the same period.

If the figures are adjusted to account for the many small dredging firms that have not even been able to compete for corps projects, the degree to which a few firms are dominating the set-aside program becomes even more pronounced. This dominance by a few large firms to the program is a simple numerical proof of what we have been telling the SBA all along and, quite logically, is caused by the facts of our industry, as I described to you.

Although this study was admittedly done by a group of dredging companies supporting a lower size standard, the statistics cannot be refuted. Nevertheless, the SBA chose the safe course of maintaining the existing size standard in spite of the cumulative proof showing the error of that standard.

Things have not changed in our industry in several years since that study was conducted. The only possible change has been elimination of potential competitors for these large firms. I know of several small dredging companies that have been forced out of business in the last several years. Conversely, I know of no dredging firms grossing between $5 and $9.5 million that have gone out of business in the last 20 years.

We small dredging firms can only assume that the reason the SBA is so paralyzed is that the large firms protected by the $9.5 million standard have spent considerable time and money persuading the SBA to increase the size standard so that they can maintain their lucrative domination of the dredging set-aside program. The only alternative for some of these large firms is simply to split into two firms to avoid graduating from the small business program.

I have been told of two instances where large family owned firms protected by the small business program have split into two in order to avoid graduation. Merritt Dredging Co. sold half of its equipment to the newly created Southern Dredging Co., and Hendry Corp. did the same for the newly created Rattlesnake Corp.

It seems to me that the small business program is doing something very wrong when, instead of allowing truly small firms to grow and increase the competitive base in the industry, it serves to protect a small group of people within the industry. I do not mean to suggest that it is the responsibility of these big firms to exit the program; they are businessmen who have profitable relationships with the Corps of Engineers and understandably seek to maintain the high level of profits afforded by restricted competition under set-aside contracts.

But I do believe that the small business program should provide opportunities for the genuinely small firms in an industry to compete among themselves for selected procurements and to thereby gain experience and strength that will allow them to compete for any type of procurement on the open market.

Neither I nor any other genuinely small firm in the industry seeks to be pampered throughout its history or in every segment of the market. But we do believe that as long as there is going to be a Small Business Administration, the agency should attempt to aid the small firms in the dredging industry.

To date, the SBA size standard has done little for small dredging firms. The most frustrating aspect of this is that this is not a case of the SBA not knowing any better. On the contrary, it has repeatedly received information as to why its size standard only benefits a few firms to the detriment of over 100 small firms in the country.

I believe that most small firms show little interest in these hearings and this program because they feel a tremendous sense of futility when it comes to the SBA. As I told you, I have participated in these hearings for 4 years now and, frankly, have nothing to show for it.

I can also say that small firms like mine cannot readily afford the time and expense to come to Washington to tell the SBA that it has a constituency out there somewhere. Even if it weren't for hearings like these, I fear the SBA might ignore us. We believe it is the SBA's responsibility to recognize that we are there and can benefit by a properly administered size standard program.

As I stated at the outset, small firms earning under $5 million per year have the necessary plant and equipment to be capable of performing a substantial number of procurements awarded by the Federal Government.

As long as the SBA exists, I believe it should work to give the many small firms in the industry realistic opportunities to compete for these procurements. To do this, the dredging size standard must be lowered.

Mr. Chairman, this concludes my testimony. Thank you very much.

[Mr. Hill's prepared statement, with attachments and responses to questions of the subcommittee, follows:]

PREPARED STATEMENT OF ARNOLD D. HILL, PRESIDENT, BARNEGAT BAY DREDGING CO.

Mr. Chairman and Members of the Committee:

My name is Arnold Hill, and I am the President of Barnegat Bay Dredging Company of Harvey Cedars, New Jersey. I am testifying on behalf of over twenty other dredging firms, all of whom are extremely interested in the development of an appropriate size standard for dredging. These firms have been involved in this effort for four years now, and I have personally testified before Congress or in regional hearings of the Small Business Administration on three occasions.

Throughout this time we have urged the SBA to reduce the $9.5 million size standard to a level that would actually benefit the scores of small dredging firms in the country. In order to help the Committee understand why the present standard is of little use to small dredging businesses, I would like to briefly explain the nature of our industry. Dredging is a very capital-intensive industry, in which efficiencies turn on the size of the dredge used, not on the number of employees. The sixteen inch and eighteen inch dredges owned by firms that gross as high as $9.5 million annually are considerably more cost-effective than the ten inch and twelve inch dredges owned by the multitude of small firms in the industry that gross between $1-4 million, such as mine. Although these small dredges are perfectly capable of performing Corps of Engineers dredging contracts in excess of $1 million, and are capable of doing so at reasonable prices to the federal government, they are incapable of effectively competing with the large dredges owned by the much larger firms near the $9.5 million mark. In most instances, a large firm near $9.5 million is essentially in a different universe than the large majority of truly small dredging firms in the country.

By setting a size standard as high as $9.5 million, the SBA does virtually nothing to increase the competitive strength of small firms. This error is compounded by the fact that the dredging industry as a whole is largely dependent on government procurement for its market. It is virtually impossible for small firms to grow to compete with the large firms near $9.5 million if the federal government does not operate the small business program in a manner designed to help small businesses.

One would intuitively expect the SBA to recognize that the dredging size standard would have to be much smaller than $9.5 million in order for the agency to assist the true small business element of the industry. As if this weren't enough, the SBA has repeatedly received information over the last ten years showing that the current standard is far too high. In the mid-70's, the SBA received two independent studies, one commissioned by the Congress and one commissioned by the Corps of Engineers, both of which recommended the size standard be significantly reduced. One suggested the $9.5 million standard be reduced by half and the other that the standard be reduced to $2-3 million. The SBA, however, did not accept the conclusions of these independent studies. I might add that if an inflation factor were applied to the $2-3 million standard recommended to the SBA several years ago, the current standard would be near the $5 million level I believe is approrpriate.

In a further attempt to show the SBA how the set-aside program has been functioning in the dredging field, the Dredging Industry Size Standard Committee (DISSC), the group of dredgers which I am representing here today, prepared a report for the SBA based on Corps of Engineers dredging procurements for a four-year period. DISSC showed that during that period over 80% of the dollars spent by the Corps of Engineers for dredging under the small business set-aside program went to less than 8% of the "small business" firms that competed during the same period. If these figures are adjusted to account for the many small dredging firms that have not even been able to compete for Corps projects, the degree to which a few firms are dominating the set-aside program becomes even more pronounced. This dominance by a few large firms in the program is simple numerical proof of what we have been telling the SBA all along and, quite logically, is caused by the facts of our industry, as I described to you. Although this study was admittedly done by a group of dredging companies supporting a lower size standard, the statistics cannot be refuted. Nevertheless, the SBA chose the safe course of maintaining the existing size standard in spite of the cumulative proof showing the error of that standard.

Things have not changed in our industry in the several years since that study was conducted. The only possible change has been the elimination of potential competitors for these large firms; I know of several small dredging businesses that have been forced out of business in the last several years. Conversely, I know of no dredging firms grossing between $5 million and $9.5 million that have gone out of business in the last twenty years.

We small dredging firms can only assume that the reason the SBA is so paralyzed is that the large firms protected by the $9.5 million standard have spent considerable time and money persuading the SBA to increase the size standard so that they can maintain their lucrative domination of the dredging set-aside program. The only alternative for some of these large firms is simply to split into two firms in order to avoid graduating from the small business program. I have been told of two instances where large family-owned firms protected by the small business program have split into two in order to avoid graduation. Merritt Dredging Company sold half of its equipment to the newly-created Southern Dredging Company, and Hendry Corporation did the same for the newly-created Rattlesnake Corporation. It seems to me that the small business program is doing something very wrong when, instead of allowing truly small firms to grow and increase the competitive base in the industry, it only serves to protect a small group of people within the industry.

I do not mean to suggest that it is the responsibility of these big firms to exit the program -- they are businessmen who have profitable relationships with the Corps of Engineers and understandably seek to maintain the high level of profits afforded by restricted competition under set-aside contracts. But I believe that the small business program should provide opportunities for the genuinely small firms in an industry to compete amongst themselves for selected procurements and to thereby gain experience and strength that will allow them to compete for any type of procurement on the open market. Neither I nor any other genuinely small firm in the industry seeks to be pampered throughout its history or in every segment of the market. But we do believe that as long as there is going to be a Small Business Administration, that agency should attempt to aid the small firms in the dredging industry.

To date, the SBA size standard has done little for small dredging firms. The most frustrating aspect of this is that this is not a case of the SBA not knowing any better. On the contrary, it has repeatedly received information as to why its size standard only benefits a few firms to the detriment of over a hundred small firms in the country. I beleve that most small firms show little interest in these hearings and this program because they feel a tremendous sense of futility when it comes to the SBA. As I told you, I have participated in these hearings for four years now and, frankly, have nothing to show for it.

I can also say that small firms like mine cannot readily afford the time and expense to come to Washington to tell the SBA that it has a constituency out there somewhere. If it weren't for hearings like these, I fear the SBA might ignore us. We believe it is the SBA's responsibility to recognize that we are there and can benefit by a properly administered size standard program. As I stated at the outset, small firms earning under $5 million per year have the necessary plant and equipment to be capable of performing a substantial number of the procurements awarded by the federal government. As long as the SBA exists, I believe it should work to give the many small firms in the industry realistic opportunities to compete for these procurements. Thank you very much.

QUESTIONS FOR BARNEGAT BAY :

1. Did you bid on any dredging set-aside contracts during the past five years? How many? How many contracts were you awarded? What was the dollar volume of those contracts?

2. In what Army Corps of Engineers districts have you bid for set-aside contracts?

3. Who are your small dredging company competitors in your district?

4. When the Corps of Engineers sets aside contracts for small business, are there always/usually/seldom two or more small companies available to bid in your area of operations? Please name them.

5. Are you a member of the "Dredging Industry Size Standards Committee?"

6. When did you join?

7. When was the Committee organized?

8. Who organized the Committee?

9. Who invited you to join?

10. How many members serve on the Committee? How many of these are small firms? How many of these are large firms?

11. How many small dredging firm members are located in the Southeast? Please name them.

12. If no dredging firms are from the Southeast -- did any of the firms from the Southeast ask you to join the Committee? Were any members of the Southeast Dredge Owners Association, other than Norfolk Dredging, asked to join? Please name them.

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ANSWERS TO SUBCOMMITTEE QUESTIONS

1. During the past five years,Barnegat Bay Dredging has bid on approximately 20 federal government dredging set-aside contracts. The dollar volume of the contracts awarded totalled approximately $9,800,000.00.

2. Barnegat Bay Dredging has submitted bids in the Norfolk,Philadelphia, and Balitmore Districts.

3. Small dredging company competitors in the districts in which we compete have been numerous over the past five years,including a number of firms that have gone out of business. Among these are the following:
   a. Cottrell Enginering
   b. Atkinson Dredging
   c. Bloomingdale Construction
   d. Cecil Construciton
   e. Spickard Enterprises
   f. Sea Harvest
   g. Gwinn Dredging
   h. Mobil Dredging Co.
   i. Northhampton Dredging
   j. Cork Construction
   k. KBB Company
   l. C.D. Murray

4. There are, by requirement of the DAR, always two or more small companies bidding on set-aside contracts. The competitors are listed in No. 3 above..

5-10 Barnegat Bay Dredging,after being contracted by a former Corp of Engineers offical who explained the goals of the group, joined an ad hoc group of firms called the Dredging Industry

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Page 2 Answers to Subcommittee questions

Size Standards Committee in 1979.The group had about 15 or 20 other small firms throughout the country,and 8 large firms.At that time, the group undertook to develop historical procurement date and to petition the SBA to lower size standards that had been set for dredging,as recommended by the National Dredging Study conducted by Congress and an independent Corps of Engineers study. Since that time,the group has attempeted to show the SBA that the $9.5 million size standard allows a very small group of firms(fewer than 10) to dominate the set-aside program, and that in fact those few firms are the only ones in the entire industry that are not in favor of a lower size standard.

11.I am not sure how many small dredging firms operate in the Southeast. Applying the SBA's unreasonable definition of "small" I would think that large firms that are members of the Southeast Dredge Owners Association would qualify. I personally do not know, and frankly am not interested,in which members of DISSC are located in the Southeast,although I do know that Supermarine (North Carolina), Florida Dredge & Dock,and Pillsbury Dredging (Florida), and Nemer Construction (Alabama) were at one time members and perhaps still are small business DISSC members.Although not members of DISSC, I note that Norfolk Dredging identified several small firms in the Southeast,such as Aztec Development Co. and Fray Development Company (Florida), O & M Dredging Company (North Carolina) and Marcol Dredging Company (South Carolina).

12 Not applicable,since these are members in the Southeast. I should add that, according to testimony at the hearing,Norfolk Dredging Company is not a member of DISSC, although their testimony showed that they, like all but a handful of firms in the country,support the same position as do the members of DISSC.

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Page 3 Answers to the Subcommittee questions

I am confident, given the interest shown in the composition of DISSC, that you have sent similar inquiries regarding the composition and, more importantly, the size of the firms that compose the Southeast Dredge Owners Association. I also hope you asked the Association to identify which members of that 10 member association prefer a higher standard, since Mr. Ware made it clear that the Association is divided on the issue. I am also told that the Association has no formal charter, by-laws or membership process. From Mr. Ware's testimony before your Subcommittee, it would appear that most, if not all, of the members of the Association have no business being classified as "small". As long as the Corps and the SBA can take credit for restricting competition on jobs up to $10.0 million in that part of the country, there will never be any meaningful incentive to fulfill Corps goals or quotas by setting aside dredging jobs in other parts of the country,where the purposes of teh SBA set-aside progrmas are sorely needed.In addition, as long as those firms dominate the program, it is unlikely that many smaller, emerging firms will enter the market in the Southeast.

Sincerely yours,

Arnold D. Hill
President, BArnegat Bay Dredging

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BOX 336, HARVEY CEDARS, N.J. 08008 ● (609) 494-5913

The Honorable Parren J. Mitchell
United States House of Representatives
2367 Rayburn House Office Building
Washington DC 20515

Re: Small Business Size Standard For the Dredging Industry

Dear Chairman Mitchell;

On behalf of my company Barnegat Bay Dredging, and many other small dredging firms throughout the country, I would like to express my sincere thanks to your for your interest and concern regarding the matter of size standards and how they impact on small firms in the dredging industry.As I testified last week,we have had little success over the past four years trying to achieve a size standard substantially lower than that the present $9.5 million, which does nothing but serve a handful of firms that dominate the program.

During the hearing I was handed a list (copy attached) of questions, and asked to respond to Ms. Christine Russell of the House Small Business Committee. I have attached to this letter my answers to those questions, and I will send a copy of this letter to Ms. Russell in response to her request.

Again I thank you for your interest and concern. Given our efforts to date, I sincerely believe we will need your help, and the help of other members of the House Small Business Committee, in lowering the present size standards to fit legitimately small dredging firms. It is amazing that this is the case, given the fact that there are fewer than ten dredging firms (all medium- sized) in the entire country on record as favoring a higher size standard, but it is neverthe less true.

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Page 2 Small Business Size Standard for the Dredging Industry

If you know of anything I can do to move the program away from medium- sized firms and back to the small, I would be honored if you would let me know.

Respectively yours,

Arnold Hill,
President, Barnegat Bay Dredging Co.

Attachment

cc: Ms Christine Russell

Mr. **Mitchell**. Thank you very much for your testimony. It is very provocative testimony. I can sympathize with your sense of frustration.

Mr. **Hill**. Thank you.

Mr. **Mitchell**. I can only say that this committee has been wrestling with size standards for almost the length of time that I have been in the Congress, and I share your frustration, not just in terms of the dredging industry but across the board, to come up with some equitable, fair size standards that will enhance small businesses rather than depress them.

I have some questions but let's hear from Mr. Jones next.

Mr. Jones, I think we have a copy of your testimony and we can submit it in its entirety for the record and you can merely give your highlights if you so desire.

TESTIMONY OF OLIN JONES, PRESIDENT, CALIFORNIA DREDGING CO.

Mr. **Jones**. I have to compliment you and thank you for inviting me here. Just to give you some ideas to how sensitive this issue is to the dredgers, there is a convention going on in Florida this week, and I think you are getting more response here than they are down there, to give you some idea of the intensity of feeling here. I am surprised that everybody showed up here.

I would like to read my testimony. I have some additional comments that I would like to make to it so I would like to go through it.

My name is Olin Jones and I am president of California Dredging Co. Like Mr. Hill, I have testified at SBA regional hearings on size standards in the past, as have six to eight other small dredgers in the country.

I represent a small group of people from California and Oregon who feel, as I do, that the size standard should be lowered. Now, our company currently receives about $3 million in annual gross sales.

Contrary to Mr. Canellas' answer to your question about people wanting a size standard right about where they are now so that they can sort of slip in under it, I am not supporting a standard equal to where I am. In other words, I could probably double in size and still be a small business.

We do jobs in the range of $1.5 to $2 million, and some of them are small business set-asides.

Like many other small dredging companies would do if they could be here, I am here to urge the SBA to recognize that a large contingent of us who are small but very competent and experienced dredging firms exist throughout the Nation and we would truly benefit by the opportunity to compete for procurements in the set-aside program.

Those opportunities would arise if the SBA defined small business at $5 million, or less.

The problem for the past 8 years has been that the $9.5 million size standard in effect benefits a very small number of larger dredging firms in the industry. I know it is confusing for you to sit here and these guys say, well, if you raise it, it is going to kill us. Another group says if you lower it, it is going to kill us; it is very confusing, but, hopefully, you will understand the definition of small means $5 million or less.

Let me go on. In some regions of the country, domination by these firms is so complete that many small firms have been driven out of business.

Both the SBA and the Corps of Engineers, which is the primary agency, as you have heard, can confirm that 10 or fewer firms garner the huge majority of all the set-aside dredging procurements nationwide. As a matter of fact in California out of 20 contractors, approximately 20, only two are large businesses. They do approximately $100 million or more a year, extremely large. So the size standards don't really define—the size standard at $9.5 million—doesn't really define or discriminate between large and small.

If we look at the market share concept in California, in some years one particular small firm has won over 70 percent of all corps set-aside work. The reason is simple: A dredging firm with gross sales between $5 million and $9.5 million is in a very real sense a much larger, more efficient firm, especially at procuring contracts, than a firm with sales below $5 million.

Those people can pick and choose contracts to more or less control their market share. They compete on both large and small jobs. They have the best of both worlds. I can give you specific examples of those if you like. The SBA's reluctance to lower the size standard is particularly troubling, given the clear intent of the SBA regulations, which emphasize the need for size standards to be set low enough to aid the smallest firms in each industry.

In 13 CFR sec. 121.3-1, the SBA recognizes that—

> Smaller concerns often are forced to compete with middle-sized as compared with very large concerns. In consideration of this fact, the standard for each industry should be established as low as reasonably possible.

That is a quote.

Competition with middle-sized firms can be nowhere as much a threat to small firms as it has been in the dredging industry. Although small firms like mine are well-suited and capable to perform most corps contracts, we cannot realistically compete with medium-sized firms grossing just under $9.5 million.

SBA regulations also recognize that medium-sized firms, and I quote again—

> Should not rely on continuing assistance under the Small Business Act from the cradle to the grave, but should plan for the day on which they become other than small business and should be able to compete without assistance.

This guideline should apply to the dredging industry, in which medium-sized firms that have fared so well under the small business program, rather than planning for the day on which they graduate, are here to tell the SBA and the committee that the size standard should actually be raised. Now, if the SBA buys this argument, smaller firms will never grow, and the middle-sized firms will continue to dominate the set-aside program.

I compliment Mr. Ware on his graduation and admission of it, and the progress he apparently has made over the years in utilizing the program the way it was meant to be utilized, and dealing today directly with the issues of competition. I agree with his testimony.

Given the policy as expressed in SBA regulations, that agency's failure to recognize the need to reduce the size standard is difficult to understand. This result is even more confusing in light of the fact that two independent Government-sponsored studies conducted in the last 10 years, which Mr. Hill referred to, have recommended that the size standard for dredging be substantially reduced.

Now, the question arises in the light of all this, why has the SBA maintained a standard of $9.5 million?

The only apparent reason for the $9.5 million standard is that the SBA is deferring to the Corps of Engineers, which prefers the higher $9.5 million size standard. In a sense, the corps cannot be blamed for wanting a higher size standard; it makes it easier for them to set aside dredging procurements for supposedly "small" businesses, and thereby give the public the impression that it is aiding small businesses.

The SBA, however, has a duty to oppose this pragmatic disregard for small businesses. Perhaps the SBA uses the same rationale as the corps—a high size standard makes it easy for the corps to set aside very large jobs, which make the SBA appear to be more effective on a dollar volume basis.

In other words, rather than having 10 $1 million contracts, 1 $10 million contract; and it is the same thing.

This is an easy way for both agencies to look good while really doing nothing for truly small firms that need the help.

I bid a job last week that pointed up—reminded me of the fact that there really are no minority-owned firms that I know of in the dredging industry in the United States. I sent out several letters requesting some quotes and as long as the standards are as high as they are, I don't see the response in the growth and the starting of minority-owned firms, and it is a shame. Quite frankly, I am just frustrated by the lack of minority-owned contractors and I don't think that is going to change because the response that I got from guys that wanted to go into business was, gee whiz, what good does it do me because there aren't any small things that I can get into.

The complete deference by the SBA to agency pressure to move away from smaller firms became an official SBA policy in last May's publication of the size standards.

Now, again, if I can quote, the preamble to this SBA regulation emphasized that size standards are

* * *

> of great concern for the Government's procuring agencies, especially the Department of Defense. * * * Standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process.

Mr. Chairman, you recognized this right away. I appreciate that.

Sophisticated procurement is the key word. It means a lot to the seasoned contractor. It means variety of equipment is a tool to, what I call, beat up on other contractors; scheduling games that are played is something that happens; old-time contacts is something that is used. There is what I call acute protest procedures that firms use. There is unbalanced bidding. There is multiple job pricing and procurement. All those things are involved in this sophisticated procurement process.

Mr. MITCHELL. What is acute protest procedures? Could you enlighten me on that?

Mr. JONES. Sure I can. People who have been in the industry a long time—and I have only been in it 7 years now—people who have been in the industry a long time use some of the medium sized and larger firms, use the protest procedure for their own benefit, in my opinion. Basically, protests are one of the things that people who have been around awhile understand and use. I am just learning about them. It is a game that they play.

So the abdication of the SBA's statutory duty to provide programs for small firms that are not sophisticated leads one to ask why a dredging size standard of $100 million is not established. Better yet, if a procuring agency is to prevail, why would Congress even provide for an SBA at all?

And in this procurement process it causes a lot of turmoil for the Corps of Engineers, and I understand that. I sympathize with them. But, by golly, we are here to help small business and it may be a little extra problem for them, but it is the law.

My understanding is that the procurement system is set up so that the procuring agency, like the Corps of Engineers, does its best to identify a responsible firm and a good price, and the SBA does its best to insure small business involvement. The contracting officer, as you probably know, has the choice to rebid work if there is not a sufficient response on it. So the argument becomes, if we set aside this, there is not going to be sufficient response on it. The contracting officer always has the option of opening it up to a non-small business set-aside.

As I mentioned, I and many other small dredgers have participated in the size standard decisionmaking process for several years, even though our business can ill afford the time and expense of doing this time after time. My body can ill afford it after flying out here all night from California.

During the last 4 years, I have submitted comments; three times I have come out here. I know that the results of the public comment period have been overwhelming in support of a lower size standard. Pressure from a handful of medium-sized firms has caused them to ignore interests.

In conclusion, I strongly urge the committee to direct the SBA to carry out its function to protect us, not to bow to the preference of the corps, or any other procuring agency that might wish to dilute the set-aside program, by including large firms that have no business receiving preferential treatment at our expense.

Here, again, the reason "small" is part of the title of the SBA is obvious, agencies intended for no other purpose than to protect and strengthen small business. It is not a medium-sized business administration. Let's get back to basics.

If I get one thing across today, that is what I want to get across. Let's get back to basics. If this is not true, the buying agencies are to control the policy, the SBA should be abolished and we should quit pretending that small dredging firms are better off because of the program. Otherwise, please set the size standard at $5 million and they will accurately identify that many small dredging firms in the country, most of whom are perfectly capable of performing most corps jobs.

When the time comes for California Dredging Co. to gross more than $5 million, we will gladly move out of the program and compete in open competition. I would welcome the opportunity to reach such a stage, and I ask for your help and the help of the SBA to make this possible.

Thank you.

[Mr. Jones' prepared statement, with attachments and responses to questions of the subcommittee, follows:]

PREPARED STATEMENT OF OLIN JONES, PRESIDENT, CALIFORNIA DREDGING CO.

Mr. Chairman, my name is Olin Jones, and I am President of California Dredging Company. I have testified at SBA regional hearings on size standards in the past, as have six to eight other small dredgers in the country. Our company currently receives about $3 million in gross annual sales. Like many other small dredging companies would do if they could be here, I am here to urge the SBA to recognize that a very large contingent of small dredging firms exists throughout the nation that would truly benefit by the opportunity to compete for government procurements in the set-aside program. Those opportunities would arise if the SBA defined "small business" dredging firms as those that grossed $5 million per year or less.

The problem for the past eight years has been that the $9.5 million size standard in effect for the dredging industry benefits a very small number of larger dredging firms in the industry. In some regions of the country, domination by these firms is so complete that many small firms literally have been driven out of business. Both the SBA and the Corps of Engineers, the primary agency which implements the SBA set-aside program for dredging, can confirm that ten or fewer firms garner the huge majority of all set-aside dredging procurements nationwide. In California, in some years one particular "small" firm has won over 70% of all Corps set-aside work. The reason for this is simple: a dredging firm with gross sales between $5 and $9.5 million in a very real sense is a much larger and much more efficient firm than a firm with sales below $5 million.

The SBA's reluctance to lower the size standard is particularly troubling, given the clear intent of the SBA regulations, which emphasize the need for size standards to be set low enough to aid the smallest firms in each industry. In 13 C.F.R. Section 121.3-1, the SBA recognizes that "smaller concerns often are forced to compete with middle-sized as compared with very large concerns. In consideration of this fact, the standard for each industry should be established as low as reasonably possible." Competition with middle-sized firms can nowhere be as much a threat to small firms as it has been in the dredging industry. Although small firms like mine are well-suited to perform most Corps contracts, we cannot realistically compete with medium-sized firms grossing just under $9.5 million.

SBA regulations also recognize that medium-sized firms "should not rely on continuing assistance under the Small Business Act from the cradle to the grave, but should plan for the day on which they become other than small business and should be able to compete without assistance." This guideline should apply to the dredging industry, in which medium-sized firms that have faired so well under the small business program, rather than planning for the day on which they graduate, are here to tell the SBA and the Committee that the size standard should actually be raised. If the SBA buys this argument, smaller firms will never grow, and the middle-sized firms will continue to dominate the set-aside program.

Given the policy as expressed in SBA regulations, that agency's failure to recognize the need to reduce the size standard is difficult to understand. This result is even more confusing in light of the fact that two independent government-sponsored studies conducted in the last ten years have recommended that the dredging size standard be substantially reduced. The question arises, in light of the stated small business focus of the SBA, and the documented need for a lower dredging size standard, why the SBA has maintained a standard of $9.5 million.

The only apparent reason for the $9.5 million standard is that the SBA is deferring to the Corps of Engineers, which prefers the higher $9.5 million size standard. In a sense, the Corps cannot be blamed for wanting a high size standard; it makes it much easier for them to set aside dredging procurements for supposedly "small" businesses, and thereby give the public the impression that it is aiding small businesses. The SBA, however, has a duty to oppose this pragmatic disregard for small businesses. Perhaps the SBA uses the same rationale as the Corps -- a high size standard makes it easy for the Corps to set aside very large jobs which make the SBA appear more effective. This is an easy way for both agencies to look good while doing nothing for truly small firms in need of help.

Complete deference by the SBA to agency pressure to move away from smaller firms became official SBA policy in last May's publication of the proposed size standards. Again, if I may quote, the preamble to this SBA regulation emphasized that size standards are "of great concern for the Government's procuring agencies, especially the Department of Defense. . . . Standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process." This abdication of the SBA's statutory duty to provide programs for small firms that are not "sophisticated" leads one to ask why a dredging size standard of $100 million is not established. Better yet, if the procuring agency is to prevail, why would Congress even provide for an SBA at all?

My understanding is that the procurement system is set up so that the procuring agency, like the Corps of Engineers, does its best to identify a responsible firm and a good price, and the SBA does its best to ensure small business involvement. As mentioned, I and many other small dredgers have participated in the size standard decision-making process for several years, even though our businesses can ill afford the time and expense of perpetually petitioning the SBA to represent and support dredging firms that are small.

During the past four years, I have submitted comments to the SBA in every comment period. Three times I have travelled from California to Washington on this topic. I know that the results of every public comment period have been overwhelming support in the dredging industry for a lower size standard. Pressure by a small handful of middle-sized firms, however, has caused the SBA to ignore the interests of the much more numerous, and certainly more needy, smaller firms of this industry.

I strongly urge that this Committee direct the SBA to carry out its function to protect small business, and not to bow to the preference of the Corps of Engineers or any other procuring agency that might wish to dilute the set-aside program by including large firms that have no business receiving preferential treatment at the expense of much smaller firms. The reason "small" is part of the title of the SBA is obvious; this agency was intended by Congress for no other purpose than to protect and strengthen small businesses. If this is not true, and if the buying agencies are to control the policy of establishing what is and what is not small, the SBA should be abolished and we should quit pretending that small dredging firms are better off because of this program. Otherwise, the SBA should set a size standard in the range of $5 million, which will accurately identify the many small dredging firms in the country, most of whom are perfectly capable of performing most Corps jobs. When the time comes for California Dredging Company to gross more than $5 million, we will gladly move out of the program and compete in open competition. I would welcome the opportunity to reach such a stage, and ask for your help and the help of the SBA to make this possible.

Thank you very much.

Olin Jones
California Dredging Company

QUESTIONS FOR CALIFORNIA DREDGING

1. Did you bid on any dredging set-aside contracts during the past five years? How many? How many contracts were you awarded? What was the dollar volume of those contracts?

2. In what Army Corps of Engineers districts have you bid for set-aside contracts?

3. Who are your small dredging company competitors in your district?

4. When the Corps of Engineers sets aside contracts for small business, are there always/usually/seldom two or more small companies available to bid in your area of operations? Please name them.

5. Are you a member of the "Dredging Industry Size Standards Committee?"

6. When did you join?

7. When was the Committee organized?

8. Who organized the Committee?

9. Who invited you to join?

10. How many members serve on the Committee? How many of these are small firms? How many of these are large firms?

11. How many small dredging firm members are located in the Southeast? Please name them.

12. If no dredging firms are from the Southeast -- did any of the firms from the Southeast ask you to join the Committee? Were any members of the Southeast Dredge Owners Association, other than Norfolk Dredging, asked to join? Please name them.

RESPONSE TO:

QUESTIONS FOR CALIFORNIA DREDGING

FROM:

MINORITY MEMBERS - SMALL BUSINESS COMMITTEE

1. A) Yes.
   B) Approximately 5 per year.
   C) Awarded 3 - less than 1 per year.
   D) 150,000 - 1,500,000
2. San Francisco
   Sacramento
   Portland
   Los Angeles
3. Shellmaker, J.E. McAmis, Aqua Dredging, Nehalem River Dredging, Sandau Dredging, Global Marine, R & D Wastson, Dutra, Bayside, Aloha, Roy Garren, Bartee Bros., Hydraulic Dredging, Leon Robertson, Al Edwards, Marine Construction, Palmberg Dredging, Delta Dredging, California Dredging, Marin Dock, Smith-Rice, Healy-Tibbits.
4. Yes, always. As above.
5. Yes.
6. I probably officially joined this year although I have supported their interests in the past several years.
7. Don't know.
8. Contractors.
9. My first contact was from Don Sandau of Sandau Dredging in Salem Oregon.
10. A) Unknown.
    B) Unknown.
    C) Unknown.
11. Don't know.
12. Don't know.

Mr. **Mitchell**. Thank you, Mr. Jones. You, too, have caused me to formulate several questions.

Mr. Hull?

TESTIMONY OF WILLIAM S. HULL, PRESIDENT, SOUTHEASTERN DREDGE OWNERS ASSOCIATION; ACCOMPANIED BY BEN COTTRELL, PRESIDENT, COTTRELL ENGINEERING CORP.

Mr. **Hull**. Mr. Chairman and members of the committee, I appreciate this opportunity to testify on behalf of increasing the size standard of the dredging industry above the $9.5 million standard adopted in 1975.

I am William S. Hull, president of the Southeastern Dredge Owners Association, and president of Atkinson Dredging Co., a small dredging company headquartered in Chesapeake, Va.

Mr. Chairman, appearing with me is Ben Cottrell, who is the vice president of our association, and also the president of Cottrell Engineering Corp., another small business dredging company.

I, as the others, have written comments. It is difficult to paraphrase them because a lot of thoughts have gone into the written testimony and I would like to maybe waffle between off-the-cuff comments and the written testimony.

Mr. **Mitchell**. Whatever you are comfortable with.

Mr. **Hull**. All right, sir.

I would like to start off with just a quick story about, you know, Solomon, and what he had to do to the baby. I just want to put into perspective kind of where we are coming from. We are not asking anybody to really cut anything in half. We want to end up today, hopefully, to nurture the baby; not in any way destroy the baby.

I do have four points and I don't mean to make this in rebuttal to those that have gone before me because that might be considered unfair. But I would like to put into perspective the fact that competition exists pretty keenly in the dredging industry. This competition is very strong; and it is strong within the small business community and it is strong outside; that is, on the open competition. So I don't want to infer at all that there is not active participation in the marketplace.

I would also like to indicate that since 1975, we have seen not only small companies, but large companies, go out of business. So it is kind of a tit-for-tat thing. The argument doesn't just hold for small, it holds for large as well. I would also like to maybe identify the benchmark where we are coming from that we are in the small business community operating under the Small Business Administration. We recognize either small or large and nothing in between.

I would also like to make a parallel comment that Barnegat Bay and California Dredging are outside the small business companies, are outside the marketplace of the southeastern region where we are coming from. It is regrettable that they do not have a viable small business market as we enjoy in the Southeast. So I think what I am trying to say is that on a national scale there is very little procurement activity on the part of the small business community; that is, outside the Southeast area.

My testimony today, Mr. Chairman, and members of the committee, not only reflects the views of our members but those of many small dredging companies who believe that an upward adjustment of the size standard for our industry, which was last adjusted in 1975, is essential to our company's survival and the survival of the small dredging industry.

In a letter dated August 24, 1983, to Mr. Andrew Canellas, Director of SBA's size standard staff, Mr. Gerold Knowles, an attorney with the law firm of Schiff, Hardin & Waite, set forth the position of our association and other small dredging companies, and demonstrates why an upward adjustment of the current size standard is critical. His letter is attached and constitutes an integral part of my testimony.

My remarks are intended to supplement this letter and shed some light on the dynamics which led to the predicament confronting our industry as a result of SBA's current proposal to maintain our standard at 1975 levels, which is $9.5 million.

The Small Business Administration 8 years ago analyzed the impact of the existing size standards, and largely to enable Federal agencies to more effectively administer the small business set-aside program mandated by the Small Business Act, proposed raising the dredging industry's size standard from $5 to $9.5 million. This is a 3-year average, not per annum, but 3-year average.

There was almost no opposition voiced during that comment period, and the revised size standard was adopted on August 5, 1975.

Following the adoption of the 1975 size standard, a dredging industry size standards committee came into existence. Other than stating that it is composed of 15 small and 7 large dredging companies, the committee's membership has remained a mystery.

In 1979, a petition was filed on the committee's behalf requesting the SBA to lower the dredging industry size standard. As a major justification for its request, it claimed that the prevailing size standard enabled a group of so-called middle-sized companies to dominate the set-aside program to the detriment of very small dredging companies.

On March 10, 1980, 3 months after the committee filed its petition, the SBA published an advance notice of proposed rulemaking. This was followed by a second notice on May 3, 1982.

In both instances our association, by letters, personal visits in Washington, and appearances at the regional meetings, cautioned SBA to guard against the adoption of a size standard which would constrict the set-aside program and thus enable large dredging interests to increase their dominance of the Federal dredging market.

We felt confident that SBA would support our position and that its support would be reflected in the proposed rule which it ultimately published on May 6 of this year. Instead, it apparently heeded the arguments of the petitioner and presently proposes to raise the size standard for all construction industries with the single exception of the dredging industry. Should this occur, large dredging companies will soon overwhelm the dredging industry. Small dredging companies that survive will be relegated to the role of subcontractors.

One assertion is that the dredging industry is uniquely composed of small, medium, and large companies. Although this statement can be made with respect to any industry, it is less true for dredging than for any other construction industry.

This was graphically pointed out in a letter dated July 29, 1982, from the Army Corps of Engineers district engineer in Savannah, Ga., to Mr. Russell J. Thorne, the executive vice president of Norfolk Dredging Co.

The letter said in part, and I quote,

> Our experience has shown that for small business application, the dredging industry is more sharply divided into "large" and "small" than the regular construction industry, with no "medium" size companies. The small dredging concern usually operates one or two hydraulic pipeline vessels and has limited capital. Large dredging concerns generally have hopper, hydraulic and rock cutter dredges and their capitalization is much more substantial. The current cost of a hopper dredge begins at $25 million.

Dredging is a capital-intensive industry. The minimum investment in plant and equipment, even to perform for small Federal dredging contracts, requires an upfront investment of $1 million or more in plant and equipment. To perform large, sophisticated dredging operations, an investment of $50 million is not unusual.

Limiting the size standard to 1975 dollar values makes it virtually impossible for small, privately held dredging companies to earn and reinvest the capital in the sophisticated plant and equipment necessary to compete with the giants who dominate our industry.

A second assertion claims that the Army Corps of Engineers' set-aside program results in higher cost to the Government, particularly in the Southeast. This assertion was refuted in a letter dated May 21, 1982, from the former director of civil works of the Corps of Engineers to Mr. Jack Downs, president of the National Association of Dredging Contractors, in which he stated, and I quote, "We have no quantifiable data which would indicate that increased costs are resulting from set-aside procedures relative to dredging contracts * * *."

The fact is that the competition among small dredging companies is so intense that the vast majority of contracts are awarded below Government estimates. Of the last 26 set-aside jobs awarded in the Southeast, all but one were awarded at prices below the Government estimate.

Contrast this with contracts which can only be performed by large dredging companies. Here you will find that they frequently come in above Government estimates, particularly with respect to hopper dredge contracts which are almost always awarded above the Government estimates.

Another assertion is made that by holding to or reducing our size standard, greater numbers of very small dredging companies will be able to compete for set-aside business.

It is important to note that all small dredging companies are eligible to compete for set-aside business. Many very small companies do so successfully. Several of these, however, bid infrequently because they are too small to handle more than a very few dredging jobs at a given time. Others fail to bid because they do not possess the necessary capacity to meet the requirements of the Army Corps of Engineers. Holding to the present size standard is not going to result in these companies getting more set-aside contracts.

What all of these companies need is additional capital at affordable interest rates which will enable them to grow. This is an area in which SBA, through its loan and guaranty programs, could directly assist very small companies to become more active participants in the setaside program.

This is much more sensible than retaining the 1975 dredging industry size standard which won't help any small dredging company but is guaranteed to result in big dredging interests siphoning off a still larger share of the market.

The Army Corps of Engineers has stated that it can support the size standard at $9.5 million. This is the corps view at the Washington level but not at district levels where the set-aside program operates.

At operational levels there is strong support for a higher size standard which will enable procurement officials to maintain a reasonably effective set-aside program. Proof of this is contained in a letter dated February 12, 1982, in which SBA cited the results of a survey which it had requested the corps to undertake of its districts.

All respondents favored a size standard of $9.5 million or higher. Eighteen respondents favored a standard higher than $9.5 million. Three of these favored a standard between $12 million and $20 million and the remaining 12 recommended a $12 million size standard.

Despite the survey and recommendations of its key operating people the corps has reached an independent conclusion to support the 1975 size standard. Mr. Chairman, I know of no factual basis which would prompt the corps to adopt this position.

It is also asserted that the present size standard dissuades a number of small dredging companies from competing for Federal set-aside contracts. This assertion is unfounded. For example, during the last 6 to 8 years at least a dozen small dredging companies have entered the competitive set-aside arena in the Baltimore district alone. These and other new entrants will grow and prosper, given two conditions:

First, they need access to financial markets to improve their capital base.

Second, they need assurances that the number and dollar volume of set-aside contracts will grow, as opposed to the current downward trend which will accelerate if the size standard is not raised to reflect the past decade of inflation.

The dredging industry has been more negatively impacted by environmental regulations and inflation than has any other industry. A few examples:

Environmental regulations prohibit the depositing of dredged material in other than approved disposal areas. These are often several miles from the dredging site. Pumping this material to these sites has required the purchase of thousands of feet of pipe and the purchase of booster pumps to push the material these long distances. It has also required us to add more men to the crews to operate and maintain the delivery system.

Since 1975, the cost of diesel fuel, approximately 20 percent of direct costs, has risen almost 210 percent—from 28 cents to 87 cents per gallon. Now, that is a wholesale price by the barge, not at the pump.

Wage rates specified by the Davis-Bacon Act, which are part of our contract, have risen 106 percent, from an average of $5.26 to $10.84 per hour, with benefits. The cost of dredging equipment such as dredge tenders, cranes, and pipes has more than doubled.

Pursuant to our request the Corps of Engineers furnished us with available data on dredging projects for the 12-month period ending July 31, 1983. The data presents a gloomy picture for small dredging companies. Of 147 contracts offered for bid, only 28 were set aside for small business competition. Of the $206 million of total awards, small business set-asides accounted for a scant $15.9 million nationwide, less than 8 percent of that total.

If I may, with your permission, just divert a minute I want to make just a few comments not contained in this written statement.

Mr. MITCHELL. Sure.

Mr. HULL. It is rather strongly worded but I feel it needs to be made because we do strongly resent the intervention and machinations of the big dredging interests who purport to champion the cause of the very small dredging companies, but who, in my opinion, actually are positioning themselves to increase their domination of the dredging industry by destroying the set-aside program, and the companies which have contributed to its success, particularly those in the Southeast, which has been the target of bitter denunciations.

We resent the tactics which have been employed by the so-called dredging industry size standards committee, including the name itself which implies that it represents the consensus of an industry, which it clearly does not.

What do we know of this committee? Who are its members? Other than stating that it includes the 15 small and 7 large dredging companies, its membership remains a mystery, not only to us but also the Army Corps of Engineers and the Small Business Administration.

As recently as September 23, both of these agencies stated that they had no information regarding its membership. We do know that since 1979 or before, the committee has been represented by one of the most powerful lobbying firms in this country.

How much has the committee paid for this Washington representation?

What companies have picked up this cost? How has the cost been apportioned between the small and large companies in that committee?

The most intriguing question is why seven large companies have involved themselves in the small business matter. Unless they are an avante garde, born-again group, eleemosynary companies, what self-interest motivated their participation?

Could it be that they view the set-aside program as a barrier which thwarts them from a total penetration of a market in which they already control 71 percent of the Federal dredging dollars?

This is not only our suspicion; it is our firm belief.

Under the guise of promoting the cause of very small dredging companies, the large dredging interests are trying to decimate the set-aside program by holding the size standards at such a low level that full participation by small dredging companies will soon become impossible.

Failure to increase this size standard will result in fewer contracts being set aside.

Failure to increase the size standard will cause a number of small dredging companies to cease to qualify for the set-aside program.

Failure to increase the size standard is an absolute guarantee that small dredging companies will never be able to earn and reinvest profits to finance the purchase of the sophisticated equipment they need to move out of the small business arena and compete with large dredging companies.

Failure to increase the size standard will place our economic survival in serious jeopardy.

We need and are clearly entitled to the same measure of relief that has been proposed for all other construction industries.

Mr. Chairman, I do appeal to this committee to turn aside the transparent rationale contained in the petition which was orchestrated to serve big business interests.

I appeal to this committee to urge the SBA and the Corps of Engineers to consider the inequity of adopting a position which denies us a size standard increase but grants an 80-percent increase to all other construction industries.

Finally, Mr. Chairman, I appeal to this committee and the sense of fairness which guides its conduct, to encourage SBA to grant us a size standard increase which will enable us to stay in business.

This concludes my testimony, Mr. Chairman. I would be happy to answer your questions.

[Mr. Hull's prepared statement, with attachments and responses to questions of the subcommittee, follows:]

PREPARED STATEMENT OF WILLIAM S. HULL, PRESIDENT, SOUTHEASTERN DREDGE OWNERS ASSOCIATION

Mr. Chairman and members of the Committee. I appreciate the opportunity to testify on behalf of increasing the size standard for the dredging industry above the $9.5M level adopted in 1975.

I am William S. Hull, President of the Southeastern Dredge Owners Association and President of Atkinson Dredging Company, a small dredging company headquartered in Chesapeake, Virginia.

The Southeastern Dredge Owners Association was established in 1934 to promote the utilization of small dredging companies for the development and maintenance of our nation's waterways in the Southeastern United States. Later, under the provisions of the Small Business Act of 1953, our Association continued its efforts to strengthen the small business set-aside program in our region. Our efforts have until now been successful. This is attested to by the fact that the Southeastern region has become the principal target of large dredging interests who are determined to increase their domination in our area as they have in every other region in the country.

My testimony not only reflects the views of our members but those of many small dredging companies who believe that an upward revision of the size standard for our industry, last adjusted in 1975, is essential to our companies' survival, and the survival of the small dredging industry.

In a letter dated August 24, 1983, to Mr. Andrew Canellas, Director of SBA's Size Standard Staff, Gerold L. Knowles, an attorney with the law firm of Schiff Hardin & Waite, set forth the position of our Association, and other small dredging companies, and demonstrates why an upward adjustment of the current size standard is critical. His letter is attached, and constitutes an integral part of my testimony. My remarks are intended to supplement Mr. Knowles' letter and shed some light on the dynamics which led to the predicament confronting our industry as a result of SBA's current proposal to maintain our size standard at 1975 levels -- $9.5 million.

Eight years ago the Small Business Administration analyzed the impact of the existing size standards, and largely to enable Federal agencies to more effectively administer the small business set-aside program mandated by the Small Business Act, proposed raising the dredging industry's size standard from $5 million to $9.5 million. There was almost no opposition voiced during that comment period, and the revised size standard was adopted on August 5, 1975.

Following the adoption of the 1975 size standard, a "Dredging Industry Size Standards Committee" came into existence. Other than stating that it is composed of 15 small and 7 large dredging companies, the committee's membership has remained a mystery. In 1979, a petition was filed on the committee's behalf requesting the SBA to lower the dredging industry size standard. As major justification for its request, it claimed that the prevailing size standard enabled a group of so-called "middle-sized" companies to dominate the set-aside program to the detriment of very small dredging companies.

Because the petition purported to represent the interests of the dredging community, one would naturally assume that the sponsoring group, the so-called "Dredging Industry Size Standards Committee", would have been broad based and include representatives of the National Association of Dredging Contractors and the Southeastern Dredge Owners Association. Such was not the case. These organizations were neither represented on the committee nor were they even requested to provide input to its deliberations.

On March 10, 1980, three months after the committee filed its petition, the SBA published an advance notice of proposed rulemaking. This was followed by a second notice on May 3, 1982. In both instances our association, by letters, personal visits in Washington, and appearances at Regional hearings, cautioned SBA to guard against the adoption of a size standard which would constrict the set-aside program and thus enable large dredging interests to increase their dominance of the Federal dredging market. We felt confident that SBA would support our position and that its support would be reflected in the proposed rule which it ultimately published on May 6 of this year. Instead, it apparently heeded the arguments of the petitioner and presently proposes to raise the size standard for all construction industries with the single exception of the dredging industry. Should this occur, large dredging companies will soon overwhelm the dredging industry. Small dredging companies that survive will be relegated to the role of sub-contractors.

A statement SBA makes in justifying its present size standard proposal is to note that of 29 responses it received following the 1982 advance notice, 23 respondents requested a lower standard. Our analysis reveals that 10 of the 29 responses came from large dredging companies. Not unexpectedly, not one of these companies recommended a higher size standard. Another response came from an association which urged the SBA to retain the 1975 dollar-volume size limits for all construction industries, together with the elimination of the 8 (a) program.

Because of substantial language similarity on key issues, many of the remaining responses appears to have been generated through an organized effort.

Thus, on the basis of a petition which was filed on behalf of a committee of unknown origin and questionable purpose, and a lack of in-depth analysis of comments submitted to SBA, we find ourselves in the dilemma of being the only industry among 27 industries in SIC Division C-Construction which is not recommended for an 80% inflation adjustment increase.

Small dredging companies whose gross receipts hover around $9.5 million because of inflation and environmental regulations have been on the receiving end of a number of erroneous assertions contained in the petition, in letters to Congress and to SBA and the Corps of Engineers. This forum provides me an opportunity to respond to a few of them.

One assertion is that the dredging industry is "uniquely" composed of small, "medium" and large companies. Although this statement can be made with respect to any industry it is less true for dredging than for any other construction industry.. This was graphically pointed out in a letter dated July 29, 1982 from the Army Corps of Engineers District Engineer, Savannah, Georgia, to Russell J. Thorne, Executive Vice President, Norfolk Dredging Company. The letter said in part, "...Our experience has shown that for small business application, the dredging industry is more sharply divided into 'large' and 'small' than the regular construction industry, with no 'medium' size companies. The small dredging concern usually operates one or two hydraulic pipeline vessels and has limited capital. Large dredging concerns generally have hopper, hydraulic and rock cutter dredges and their capitalization is much more substantial. (The current cost of a hopper dredge begins at $25 million)..."(emphasis added)

Dredging is a capital intensive industry. The minimum investment in plant and equipment, even to perform for small federal dredging contracts, requires an up-front investment of $1 million or more in plant and equipment. To perform large, sophisticated dredging operations, an investment of $50 million is not unusual. Limiting the size standard to 1975 dollar values makes it virtually impossible for small, privately held dredging companies to earn and reinvest the capital in the sophisticated plant and equipment necessary to compete with the giants who dominate our industry.

Given the skyrocketing costs of the last decade it is preposterous for the petitioners to assert that a dredging company grossing $9.5 million should be considered a "middle" size company when the next higher level of competition includes subsidiaries of companies doing hundreds of millions of dollars.

A second assertion claims that the Army Corps of Engineers' set-aside program results in higher cost to the government, particularly in the Southeast. This assertion was refuted in a letter dated May 21, 1982 from the former director of civil works of the Corps of Engineers to Jack Downs, President of the National Association of Dredging Contractors, in which he stated "...we have no quantifiable data which would indicate that increased costs are resulting from set-aside procedures relative to dredging contracts..."

The fact is that the competition among small dredging companies is so intense that the vast majority of contracts are awarded below government estimates. Of the last 26 set-aside jobs awarded in the Southeast all but one were awarded at prices below government estimates. Constrast this with contracts which can only be performed by large dredging companies. Here you will find that they frequently come in above government estimates, particularly with respect to hopper dredge contracts which are almost always awarded above government estimates.

Another assertion is made that by holding to or reducing our size standard, greater numbers of very small dredging companies will be able to compete for set-aside business.

It is important to note that all small dredging companies are eligible to compete for set-aside business. Many very small companies do so successfully. Several of these, however, bid infrequently because they are too small to handle more than a very few dredging jobs at any given time. Others fail to bid because they do not possess the necessary capacity to meet the requirements of the Army Corps of Engineers. Holding to the present size standard is not going to result in these companies getting more set-aside contracts. What all of these companies need is additional capital at affordable interest rates which will enable them to grow. This is an area in which SBA, through its loan and guaranty programs, could directly assist very small companies to become more active participants in the set-aside program. This is much more sensible than retaining the 1975 dredging industry size standard which won't help any small dredging company but is guaranteed to result in big dredging interests siphoning off a still larger share of the market.

The Army Corps of Engineers has stated that it can support the size standard at $9.5 million. This is the Corps view at the Washington level but not at district levels where the set-aside program operates. At operational levels there is strong support for a higher size standard which will enable procurement officials to maintain a reasonably effective set-aside program. Proof of this is contained in a letter dated February 12, 1982, in which SBA cited the results of a survey which it had requested the Corps to undertake of its districts. All respondents favored a size standard of $9.5 million or higher. 18 respondents favored a standard higher than $9.5 million. Three of these favored a standard between $12 million and $20 million and the remaining 12 recommended a $12 million size standard.

Despite the survey and recommendations of its key operating people the Corps has reached an independent conclusion to support the 1975 size standard. Mr. Chairman, I know of no factual basis which would prompt the Corps to adopt this position.

It is also asserted that the present size standard dissuades a number of small dredging companies from competing for Federal set-aside contracts. This assertion is unfounded. For example, during the last 6 to 8 years at least a dozen small dredging companies have entered the competitive set-aside arena in the Baltimore District alone. These and other new entrants will grow and prosper given two conditions:

ONE They need access to financial markets to improve their capital base, and

TWO They need assurances that the number and dollar volume of set-aside contracts will grow, as opposed to the current downward trend which will accelerate if the size standard is not raised to reflect the past decade of inflation.

The dredging industry has been more negatively impacted by environmental regulations and inflation than has any other industry. A few examples:

° Environmental regulations prohibit the depositing of dredged material in other than approved disposal areas. These are often several miles from the dredging site. Pumping this material to these sites has required the purchase of thousands of feet of pipe and the purchase of booster pumps to push the material these long distances. It has also required us to add more men to the crews to operate and maintain the delivery system.

° Since 1975, the cost of diesel fuel, approximately 20% of direct costs, has risen almost 210% -- from 28¢ to 87¢ per gallon.

° Wage rates specified by the Davis Bacon Act have risen 106% -- from an average of $5.26 to $10.84 per hour.

° The cost of dredging equipment such as dredge tenders, cranes, and pipe has more than doubled.

Pursuant to our request the Corps of Engineers furnished us with available data on dredging projects for the twelve month period ending July 31, 1983. The data presents a gloomy picture for small dredging companies. Of 147 contracts offered for bid only 28 were set-aside for small business competition. Of the $206 million of total awards, small business set-asides accounted for a scant $15.9 million nationwide -- less than 8%.

Failure to increase the size standard will result in yet fewer contracts being set-aside. Failure to increase the size standard will cause a number of small dredging companies to cease to qualify for the set-aside program. Failure to increase the size standard is an absolute guaranty that small dredging companies will never be able to earn and reinvest profits to finance the purchase of the sophisticated equipment they need to move out of the small business arena and compete with large dredging companies.

Failure to increase the size standard will place our economic survival in serious jeopardy.

We need and are clearly entitled to the same measure of relief that has been proposed for all other construction industries.

Mr. Chairman, I appeal to this committee to turn aside the transparent rationale contained in the petition which was orchestrated to serve big business interests. I appeal to this committee to urge the SBA and the Corps of Engineers to consider the inequity of adopting a position which denies us a size standard increase but grants an 80% increase to all other construction industries. Finally, Mr. Chairman, I appeal to this committee and the sense of fairness which guides its conduct, to encourage SBA to grant us a size standard increase which will enable us to stay in business.

Mr. Chairman, this concludes my testimony. I would be happy to answer your questions.

Thank you.

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August 24, 1983

Mr. Andrew A. Canellas
Director, Size Standards Staff
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Re: Dredging Industry Size Standard - SIC 1629

Dear Mr. Canellas:

At the request of Walter Larke Sorg Associates, I am submitting this letter on behalf of the Southeastern Dredge Owners Association with respect to the dredging size standard proposed by the Small Business Administration ("SBA"). This letter urges the SBA, for the reasons set forth below, to increase the size standard above the level of $9.5 million presently proposed.

I.

SBA PROPOSAL REGARDING SIZE STANDARD

On May 6, 1983, the SBA issued a proposed rule to amend its size standard regulation, which effects eligibility for SBA programs, to, inter alia, "deal with the effects of inflation...."[1] The proposed regulations provide that the size standard for the dredging industry would remain at $9.5 million -- unchanged from the level established in 1975.[2] The dredging size standard is one of the few industry standards which would not be raised under the proposed regulation. The size standard for all 26 of the other industries in SIC Division C -- Construction would be increased by 79 or 80 percent.

II.

FUNDAMENTAL PURPOSE OF SBA IS PRESERVATION OF FREE COMPETITION.

The basic rationale for federal assistance to small businesses is the preservation of the free enterprise system. The enabling legislation establishing the SBA clearly indicates this rationale. Section 2(a) of the Small Business Act (15 U.S.C. §631(a)) states that:

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[1] 48 Fed. Reg. 20560, May 6, 1983.

[2] On August 5, 1975 the size standard for dredging contractors was increased to $9.5 million from $5 million. 40 Fed. Reg. 32824; 13 C.F.R. §121.3-8.

> [T]he essence of the American economic system of private enterprise is free competition. Only through full and fair competition can markets, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of such competition is basic not only to the economic well-being but to the security of this Nation.

In carrying out its mandate to preserve and expand full and free competition, the SBA must analyize each individual industry when making a determination with respect to the appropriate size standard. Section 3 of the Small Business Act clearly indicates that the criteria are designed to ensure that the characteristics of each industry should be considered individually.

Among the characteristics of the dredging industry which must be considered are the capabilities required to successfully perform the type of projects included in the set-aside program, the magnitude of the effects of inflation on the industry, and the significant cost increases resulting from environmental regulations.

III.

PRESERVATION OF FREE COMPETITION IN DREDGING INDUSTRY REQUIRES UPWARD ADJUSTMENT IN SIZE STANDARD.

A careful evaluation and consideration of the individual characteristics of the dredging industry clearly leads to the conclusion that preservation of free competition in the industry requires a significant increase in the size standard for small dredging companies. Failure to increase the size standard at this time will cause a number of small dredging companies to cease to qualify for the set-aside program which will place their economic survival in serious jeopardy.

Characteristics Of Dredging Industry And Unique Situation In The Southeast

Small dredging companies operate on a local or at most a limited regional basis. For example, small dredging firms located in the southeastern states are not able to compete with dredging firms in other markets such as the Great Lakes or Pacific areas, and small firms in these other areas do not compete with the dredging firms in the southeastern states. The principal reasons that small dredging firms do not have the mobility to move from one local market to another is their limited capital and resources to move dredging equipment long distances between such markets, or to have dredging equipment located in several markets.

An analysis of competition in the dredging industry to determine the appropriate size standard should consider the nature of the competitive market which in this case is local or at most regional for small firms. Failure to consider the local and regional markets would result in the establishment of a size standard which would be inadequate and not representative of the real market variables which exist in the dredging industry.

Since the set-aside program in the dredging industry is now focused in the southeastern portion of the Nation, the characteristics of the industry in that region are of particular relevancy. The physical characteristics of the waterways along the southeastern coastal areas are different than those in other markets or regions of the United States and require specifically designed dredging equipment to adequately and effectively perform the dredging work. The requirement for such equipment necessitates larger capital investments by companies operating in the Southeast. Larger capital investments means these companies must earn higher gross revenues in order to be competitive -- or even survive.

The Corps of Engineers has recognized this unique situation in the Southeast. Data available on set-aside contracts during 1982 indicate that the average size of small business set-aside contracts for the southeastern area was $425,000 compared with $242,000 for the rest of the United States.

Exacerbated Effect Of Inflation On Dredging Industry

The extremely high rates of inflation experienced in the United States during the period since the present size standard was established in 1975 have had particularly severe effects on the dredging industry. Because dredging is a capital intensive industry, the dramatic increases in the cost of equipment and the unusually high interest rates have significantly increased the cost of doing business. For example, as indicated in the comments submitted by Rose Marine, Inc. (letter dated July 12, 1983), a 60 ton crane mounted on a barge which would have cost approximately $500,000 in 1975 would in 1983 cost approximately $1.1 million, and the cost of a 65 foot tug boat has increased from $350,000 in 1975 to $900,000 in 1983. In light of increases of such magnitude in the cost of equipment and unusually high interest rates, it is necessary for a dredging company to earn significantly higher gross revenues in order to service the debt on equipment loans so as to maintain capacity adequate to perform the same amount of work as it was performing in 1975.

The dredging industry also is a heavy user of petroleum products. Skyrocketing oil prices during the period since 1974 have also dramatically increased the cost of doing business. Although data regarding the price of diesel fuel is not available from the Department of Energy back to 1974, data that is available indicates that the price of diesel fuel has increased by a shocking 286 percent since only 1976. (DOE/EIA Monthly Energy Review, July 1983.)

These are but two examples of areas in which the dredging industry has been affected more heavily by inflation than certain other industries. Absolutely no data has been presented which indicates that the dredging industry has been less adversely affected by inflation than other industries. Indeed, in the notice of the proposed rule the SBA makes no such assertion. In the absence of data indicating that the dredging industry has not borne the full impact of inflation, an adjustment to the size standard should be made in an attempt to put it on a real dollar level equivalent to the time of the last general adjustment.

Use of the GNP deflator to adjust for inflation would result in an increase of 81 percent in the size standard for the dredging industry. An increase of 81 percent should be viewed as the minimum level of adjustment necessary to reflect the inflation in costs experienced by the dredging industry. The exacerbated effect of inflation on the dredging industry would justify an increase in the size standard in excess of 81 percent.

Cost Increases Resulting From Environmental Regulations

Environmental regulations imposed at both the national and state levels have significantly increased the cost of doing business in the dredging industry. For example, since adoption of the present size standard in 1975 diking costs and pipeline length (60% attributable to environmental cost) have more than doubled the cost of many projects. State environmental regulations, for example, preclude dredging operations during the spawning season, thus forcing dredging companies to operate under adverse weather conditions at higher cost in order to meet contractual obligations. The gross revenues of dredging companies must increase to reflect the cost increases resulting from environmental regulations, even though the same volume of dredging is being performed.

No data has been presented which indicates that the costs of other industries in SIC Division C -- Construction have been more heavily affected by environmental regulations than those of the dredging industry. Thus, the impact of environmental regulations does not provide a basis for increasing the size standard for the dredging industry by a smaller percentage than the increase in the size standard for other industries in SIC Division C -- Construction. The size standards for all 26 other industries in SIC Division C -- Construction are proposed to be increased by at least 79 percent; the size standard for the dredging industry should be increased by at least that percentage.

IV.

FAILURE TO INCREASE SIZE STANDARD WOULD BE A DE FACTO LOWERING OF THE STANDARD.

In the dredging industry, as in many industries, companies range in size from the very small to the extremely large.[3/] Drawing the line of demarcation to determine which companies should be considered "small" is admittedly not an easy task. Fortunately it is not necessary for the SBA to start with an entirely clean slate. The analysis with respect to a revised size standard has for its starting point the present standard of $9.5 million, which was established in 1975 based on 1974 data. The SBA has concluded that:

[3/] Although as noted by the Savannah District, Army Corps of Engineers, firms in the dredging industry tend to be either large or small.

> Our experience has shown that for small business application, the dredging industry is more sharply divided into 'large' and 'small' than the regular construction industry, with no 'medium' size companies. The small dredging concern usually operates one or two hydraulic pipeline vessels and has limited capital. Large dredging concerns generally have hopper, hydraulic, and rock cutter dredges and their capitalization is much more substantial.

(Letter dated July 29, 1982, from District Engineer, Savannah District, Corps of Engineers.)

> [T]he set of size standards presently in use is logically based, considering the development and general public acceptability of the procurement size standards, the industrial structure of industries, and the needs of Federal programs which have utilized the existent standards for a number of years. [4]

The first step in arriving at a revised size standard should be to make an inflationary adjustment to the present standard "in an attempt to put the size standard on a real dollar equivalent to the time of the last general adjustment...."[5] As indicated by the SBA, the GNP deflator is the most comprehensive price index and provides the most appropriate basis for making such an inflationary adjustment.[6] Comparison of the GNP deflator for 1974 of 115 with the estimated deflator of 208 for the third quarter of 1982 results in an increase of 81 percent. The total increase of 81 percent should then be applied to the present size standard to adjust for inflation. Such an inflation adjustment would result in increasing the size standard for the dredging industry from $9.5 million to $17.2 million.

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[4] 48 Fed. Reg. 20560, May 6, 1983 (emphasis added).

[5] Id. at 20562.

[6] Id.

Such an adjustment for inflation should be viewed as the minimum, reasonable adjustment to the size standard.[7] To leave the size standard for the dredging industry unchanged would mean that the SBA has concluded that it was wrong in 1975 and that the size standard should have been set at $5.25 million in 1975. That clearly is not the case. Rather, on May 6, 1983, the SBA reaffirmed its prior decision that the standard set in 1975 was logical and appropriate.

V.

FAILURE TO INCREASE THE SIZE STANDARD WOULD BE ARBITRARY, UNFAIR, AND WITHOUT FACTUAL SUPPORT.

Leaving the present size standard for the dredging industry unchanged would be inconsistent with the stated intent of the SBA.

> The intent of this proposal is to give the size standards a real value equivalent to that which existed in 1975.... Firms have been losing SBA eligibility due to inflation, and an inflation adjustment will help to remedy this. 8/

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[7] An adjust to the dredging industry size standard for inflation is supported by the Savannah District, Corps of Engineers. "We take the viewpoint that inflation has created a situation which the current small business standards do not recognize, and that the size standard for small business should be adjusted upward from the $9.5 million." (Letter dated July 29, 1982, from District Engineer, Savannah District, Corps of Engineers.)

[8] 48 Fed. Reg. 20561, May 6, 1983.

There is no indication that the dredging industry has been immune to the ravages of inflation. Rather, as described above, inflation has had a particularly severe effect on the dredging industry.

With respect to the size standards in the construction area, the SBA stated that:

> The size standards in construction, retail, and services are presently stated in gross receipts. Under the new approach the size standard for both the procurement and financial programs will be based on the present procurement size standard increased for inflation unless problems are known to exist. [9]

The SBA makes no statement regarding specific problems known to exist with respect to the dredging industry to justify the failure to adjust for inflation. Thus, the small dredging companies, which under the proposed regulation will shortly cease to qualify for the set-aside program, have been provided with no statement regarding the grounds for this decision. To leave the size standard for the dredging industry unchanged from the level fixed in 1975 would be arbitrary, unfair, and without factual support.

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[9] 48 Fed. Reg. 20563, May 6, 1983.

VI.

DEFENSE AND NATIONAL SECURITY INTERESTS REQUIRE FULL AND FREE COMPETITION IN DREDGING INDUSTRY.

Proper maintenance of navigable ports, harbors, and the waterways leading to ports and habors is vital to defense and national security requirements. The small business set-aside program must have size standards sufficiently high to include firms with the technical and operational capability to meet the requirements of the set-aside contracts for dredging. The need to consider this objective when adjusting a size standard was recognized by the SBA.

> [T]he size of firm eligible to bid on procurements set aside for exclusive small business bidding is of great concern for the Government's procuring agencies, especially the Department of Defense. Since prime purposes of procurement assistance programs are to assure continuation and availability of competition, and to expand the mobilization base, standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process. 10/

The SBA further stated that:

> SBA has a strong interest in facilitating the administration of the small business set-aside program, and has therefore sought to minimize disruption to this program. 11/

10/ 48 Fed. Reg. 20560, May 6, 1983

11/ 48 Fed. Reg. 20561, May 6, 1983.

These statements of policy by the SBA with respect to procurement set-aside programs for small businesses are particularly applicable to the dredging industry in the southeastern region of the country. If the size standard is left unchanged a number of small dredging companies will soon become ineligible for the set-aside program. The result of this will not be that extremely small firms will be awarded the government contracts. Rather, the result will be to destroy the set aside program in the Southeast. Although some very small dredging companies do successfully compete for projects suitable for their equipment and overall capability, and will continue to do so following an upward adjustment in the size standard, most extremely small firms lack the capability to perform the types of dredging projects available under the set-aside program in the Southeast.[12/] Failure to increase the size standard will force the government to open more contracts for unrestricted competition in order to get contractors capable of doing the job. Large dredging companies would then be able to overwhelm the small dredging companies, which would have ceased to qualify under

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[12/] In the spirit of Public Law 95-507 it does not seem unreasonable for the Corps of Engineers to consider encouraging utilization of extremely small dredging companies as subcontractors whenever feasible.

the size standard due to inflation having pushed their gross revenues above the $9.5 million level. Such an outcome would not serve to preserve competition, nor would it be in the national interest.

In a letter dated February 12, 1983 the SBA's Office of Industry Analysis provided the Army Corps of Engineers with its analysis of a survey of the district offices of the Corps regarding the appropriate size standard for the dredging industry. All 18 of the Corps' 31 district offices responding to the survey recommended a size standard of $12 million or above. Three of the district offices recommended a size standard of $20 million. These 18 district offices accounted for 92 percent and 89 percent of all set-aside contracts during fiscal years 1980 and 1981, respectively. The views expressed by the Corps of Engineers' Districts should not be ignored.

VII.

SUMMARY

The present size standard for the dredging industry was established in 1975. Due to inflation since that time, failure to increase the size standard would be a de facto decrease of 81 percent in terms of real dollars. During the period since 1975 there has been little growth in the volume of dredging work performed. Increases in the gross revenues of small dredging firms have been due to inflation and additional costs resulting from envirnomental regulation, not to increases in the volume of dredging.

The effects of inflation have been particularly severe on the dredging industry. There has been no showing that the effects of inflation have been any less serious on the dredging industry than on the other industries in SIC Division C -- Construction. The SBA proposes to increase the size standard for all 26 of the other industries in SIC Division C -- Construction by at least 79 percent. Such an increase should be viewed as the minimum, reasonable adjustment to the size standards for the dredging industry.

A significant increase in the size standard for the dredging industry is necessary in order to preserve competition in the industry, particularly in the southeastern states. The Corps of Engineers' Districts have clearly recognized the need for such an increase. The type of projects available under the set-aside program in the Southeast simply cannot successfully be completed by extremely small firms.

Failure to increase the size standard will force the government to open more contracts for unrestricted competition in order to obtain capable contractors. The result will be that a number of small firms, which will soon cease to qualify for the set-aside program because of inflation, will be overwhelmed by the large dredging companies. The twin consequences will be the destruction of the set-aside program in the Southeast and the increased dominance of the large firms in the industry. Such an outcome is clearly not in the national interest, and is inconsistent with the objectives of the Small Business Act.

The need for the relief provided by such an increase is immediate. Upward adjustment of the size standard for the dredging industry should coincide with the promulgation of the size standard rule governing all other industries in SIC Division C -- Construction. It should not be deferred awaiting the recommendation of the Joint SBA-Corps of Engineers Task Force. Fine-tuning can be taken care of at the time a recommendation is received from the Task Force, but a significant increase in the size standard is needed at the earliest possible date.

For the reasons set forth above, the Southeastern Dredge Owners Association respectfully requests that the size standard for the dredging industry be increased to $21.5 million. In light of the 31 percent increase in the GNP deflator since the present standard was established, it is respectfully submitted that an increase of 81 percent (from $9.5 million to $17.2 million) is the minimum adjustment that can be justified.

Respectfully submitted,

Gearold L. Knowles

Gearold L. Knowles

SOUTHEASTERN DREDGE OWNERS ASSOCIATION

WILLIAM S. HULL
PRESIDENT

B. G. COTTRELL
VICE-PRESIDENT

H. GEORGE DENT, JR.
SECRETARY-TREASURER

P. O. Box 15284
WRITTEN AT Chesapeake, Va. 23320

October 24, 1983

Small Business Committee
Subcommittee on SBA and SBIC Authority,
Minority Enterprise and General
Business Problems
B-343 C, Rayburn House Office Building
Washington, D. C. 20515

Attn: Ms. Christine Russell

Ladies and Gentlemen:

We are pleased to respond to the questions from the Minority Members of the Small Business Committee asked of us at the October 20, 1983 hearing in Washington.

1. How many members are in your Association?
   There are currently 10 members of our Association.

   Are they all small?
   No.

   If not, how many are large members?
   Only one is declared as a large business dredging company and that one is Norfolk Dredging Company.

2. How would SBA's proposal to keep the size standard for your industry at its current level affect your members?
   By keeping the size standard at its current level and given the adverse effect of inflation alone on the cost of doing business, at least six of our members will be in the "large" category within a short period of time.

   How would this affect your own business?
   Should the size standard remain the same as the 1975 standard, that is at $9.5 million, our company would be forced to reduce its level of operations to remain within the size standard or to continue to operate and grow in dollar volume (that is, a volume fueled by inflation) rather than an increase in dredging volume. The first alternative is contrary to our free enterprise system of growth and the second alternative falters because our equipment and capital resources are not sufficient at this time to compete with large business dredging interests.

3. Am I correct in assuming that neither you nor your Association were asked to become members of the "Dredging Industry Size Standards Committee"?
   Yes, sir that is a correct assumption.

   Why do you think none of you were asked to join?
   We believe we were not asked to join because our position of advocating a higher standard for the small business dredging industry is well known and this position is contrary to the interests of the "dredging industry size standard committee".

   Further, our efforts in the Southeast are to expand the small business dredging market, not only regionally but on a national scale, too. This obviously is against the interest of the large business members of the Committee who apparently want to reduce the small business dredging industry.

   Testimony by one of the small business dredging companies on October 20 (we recall that Mr. Olin Jones of California Dredging Company made these statements) alluded to the efforts of some companies which utilize the protest procedures to disrupt the bidding process and we would like to expand on that testimony as a further example of the attempt by large business dredging concerns to interfere with the set-aside program. In one Federal procuring agency (the Norfolk District, U.S. Army Corps of Engineers) large business concerns have registered a protest on virtually every set-aside dredging project within the last three years. These protests were lodged either with the contracting officer or the general accounting office and each resulted in untimely delays for award or, in at least one current instance, the lack of an award to date. You can imagine the chaos and turmoil resulting in these delays to the dredging industry, to the procuring agency and to the general public.

We enclose copies of our testimony which was inserted with our original presentation so that the written record for us is complete. We also submit a position paper with current membership which was formulated several years ago. We trust that both documents will clarify our position as being consistent and viable to our request for a higher size standard for the small business dredging industry.

We thank you for your interest and for the opportunity to respond to your questions.

Very truly yours,

ATKINSON DREDGING COMPANY

William S Hull
William S. Hull, President

WSH/mw

Enclosures: Subcommittee #1 Questions
Southeastern Dredge Owners Association Statement, Oct., 1983
Statement by William S. Hull as part of original testimony submitted October 20, 1983

SOUTHEASTERN DREDGE OWNERS ASSOCIATION

WILLIAM S. HULL
PRESIDENT

B. G. COTTRELL
VICE-PRESIDENT

H. GEORGE DENT, JR.
SECRETARY-TREASURER

P. O. Box 15284
WRITTEN AT Chesapeake, Virginia 23320

This Association consists of dredging companies which are independently owned, regional in scope of operations and eligible for Government contract work under the Small Business Set-Aside Program of the Small Business Administration. The hydraulic dredging capability of the member companies varies from 10" portable equipment to 22" harbor size equipment; bucket dredging and dike construction also fall within the performance range of these companies.

Since the organization of this Association over 25 years ago, our primary purpose has been to improve the Small Business dredge industry. Typical of our efforts in this regard are:

a) Active response to Government bids, especially those which have been set aside for small business;

b) Periodic meetings with various agencies to discuss problems of mutual interest;

c) Affiliation through our member companies in national Associations which broaden our areas of influence;

d) Formation of AD HOC committees to strengthen and promote the Association policies;

e) Development of a mutual trust and confidence with our best customer, the Federal Government (through the Army and Navy Engineers), in solving problems inherent to our industry;

f) And, to advise our membership as information is received on various changes in policies or regulations from contracting agencies and other pertinent sources.

Our current membership consists of these companies:

Atkinson Dredging Company
Cottrell Engineering Company
Hendry Corporation
Hydrarch Incorporated
J. A. Laporte
Merritt Dredging Company
Norfolk Dredging Company
Parkhill-Goodloe Company. Inc.
Prosperity Dredging Company
Southern Dredging Company

Mr. Chairman, I would like to make a few remarks which are not contained in my written statement.

We strongly resent the intervention and machinations of big dredging interests who purport to champion the cause of the very small dredging companies but who are in my opinion actually positioning themselves to increase their domination of the dredging industry by destroying the set-aside program and the companies which have contributed to its success, particularly in the Southeast, which has been the target of bitter denunciations.

We resent the tactics which have beem employed by the so-called "Dredging Industry Size Standards Committee", including the name itself which implies that it represents the concensus of an industry which it clearly does not.

What do we know of this Committee? Who are its members? Other than stating that it includes 15 small and 7 large dredging companies, its membership remains a mystery, not only to us but to the U.S. Army Corps of Engineers and to the Small Business Administration. As recently as September 23 both of these agencies stated that they had no information regarding its membership.

We do know that since 1979 or before, the Committee has been represented by one of the most powerful lobbying firms in the country. How much has the committee paid for this Washington representation? What companies have picked up this cost? How has the cost been apportioned between the large and small companies.

The most intriguing question is why 7 large companies have involved themselves in a small business issue. Unless they are an avant-garde, born-again group of eleemosynary companies, what self-interest motivated their participation? Could it be that they view the set-aside program as a barrier which thwarts them from a total penetration of a market in which they already control 71% of the federal dredging dollars? This is not only our suspicion it is our firm belief. Under the guise of promoting the cause of very small dredging companies, large dredging interests are trying to decimate the set-aside program by holding size standards at such a low level that full participation by small dredging companies will soon become impossible.

Mr. MITCHELL. Thank you very much. It was kind of strong language, wasn't it?

Mr. HULL. Yes, sir.

Mr. MITCHELL. Sometimes I think I ought to be in some other business.

[Laughter.]

Mr. HULL. That has crossed our mind too, Mr. Chairman.

Mr. MITCHELL. Maybe sorting out threads: one thread is green and another one is black, another one is white, and there is no problem there.

I have a number of questions. First on this side, is there kind of an agreement about a $5 million standard; is that correct?

Mr. JONES. Yes.

Mr. HILL. Yes, there is.

Mr. MITCHELL. OK.

Obviously, you are not in agreement with them.

Maybe I had better do it by individuals. Let me go back to Mr. Ware. SBA has all of your recommendations, right, that you have included in this testimony?

Mr. WARE. Yes, they should. I believe we have mailed them all to them; on several occasions, I believe they have had several hearings. We have attempted to respond to each public notice.

Mr. MITCHELL. OK. In one sense, it seems to me illogical for a large dredger to advocate lowering the standards. I guess, from my point of view, if you lower the standards, that would increase the present number of large firms, wouldn't it?

If you do that, you are really increasing the competition between those large firms.

Mr. WARE. I am glad you asked that question.

No. 1, in the context of the industry that has been presented to you today, Norfolk Dredging is not large by any stretch of the imagination.

Norfolk Dredging Co. has competed with the firms in which Mr. Hull alludes. We are a founding member of the Southeastern Dredge Owners Association. We welcome the opportunity to compete. But we feel, and having been a part of this SBA program, that it is unwarranted and it does protect and benefit the sophisticated middle-sized firm of which Norfolk Dredging Co. was one for many years.

We graduated. We acknowledged that we graduated. We publicly announced it. At that moment, we became not only incompetent business people—some thought we were not only persona non grata, but they questioned our integrity. But the question is not the fact of the sophistication of an industry, but whether the program is to assist small business. You have heard these small businesses. You see these letters that were attached to my statement. Without exception, they say $5 million. I say maybe even lower. Without exception of inflation, without exception of the environmental concern, they say that they are not receiving the benefits.

Now, I don't think that anybody is in a position to say that those people are talking from the framework of anyone but themselves. I know that Norfolk Dredging Co. is speaking for Norfolk Dredging Co. and for the industry.

We are not speaking for any organization, although we are a member of the national association which cannot and will not take a stand. It has officially said it will not take a stand on this because it represents the entire industry over the whole country. But we are concerned that the SBA program is not really accomplishing in the dredging industry what its avowed purpose is stated within the act and in the public notices given. They have changed recently to the sophisticated procurement.

I don't have any argument with the Corps of Engineers. If I was with them, I would want the large sophisticated company doing my work too, because it is easy. You don't have to deal with the emerging industry.

So I hope I have answered your question. We welcome the opportunity to compete.

Mr. MITCHELL. Let me put this to all the members of the panel. For as long as I have been on this Small Business Committee, and I think it has been a kind of consensus among the members that the effort ought to be made to rake up big contracts to enable smaller businesses to compete.

We have had our fights with the Department of Defense, and with many, many agencies. I must say that we have made some progress in breaking down these huge contracts into smaller components so that the small businesses can compete.

Tell me a little bit about your problems with the size of the contract with the Corps of Engineers—you alluded to that, Mr. Jones—and packaging requirements for bids.

Are those problems for the small dredgers? The size of the contract is, I am sure.

Mr. JONES. If I may go first, there are several things I would like to say in response to that question.

I am in favor of breaking up some of the extremely large contracts. Mr. Hull had mentioned that fewer contracts would be granted if there were a lower size standard. I don't think a number of contracts is a function of whether there is a lot of large or small businesses out there. In other words, whether we have a standard at $9.5 million or $5 million is not really related to how the corps does their dredging. OK?

The packaging has been done in some districts. For example, this week we are working for the corps where they have taken a job and put it into two reaches. One, a large contractor is doing; another we are doing with our upper dredge. It is a small $200,000 job. The corps has done that in some instances, and they are to be complimented for that. I would like to see more of it.

Mr. MITCHELL. Are those relatively isolated instances?

Mr. JONES. Unfortunately, they are. Not enough of it happens. If it happened more often, there would be more opportunity for smaller contractors to start, such as some of the minority firms that I have mentioned earlier.

You mentioned a problem about the procurement process. There are, unfortunately, some devices that I see being used in this sophisticated procurement process to prevent or harass, or not really benefit the small business contractor on small business set-aside work.

For example, one of the most recent jobs in the San Francisco District came out with a starting time of 3 days, and you had to be pumping within 20 days. That is almost physically impossible for anyone to do. This is not an emergency job, but yet it is a restriction on the performance of the contract.

I don't know why they do those things. I honestly don't know. But things like that do happen.

Mr. MITCHELL. Other comments?

Mr. HULL. Mr. Chairman, I just have to be a little insular in the sense of being more familiar with the Southeast. I have been in the dredging business 20 years now. I am over my teenage years, so to speak. The last 6 months have really been tough because we are a small company, and you are looking at Atkinson Dredging Co. except for our field people, so aside from going out to look at the work, bidding the work, we have to accomplish the work. So the last 6 months have been the busiest of my career because of work put out in part by the funding of the jobs bill, and in part by the end of the fiscal year; that is, the money left over in the regular budget.

We have perhaps had the busiest 6 months that I can remember, probably 30 or more bids in that time, which is an awful lot. I think it speaks well of the Congress, of course, to have provided that extra money, and also for the Corps of Engineers to be able to respond with those jobs, to come out with a package of bids.

So I think in that region of the country they have done an admirable job.

The competition, as I mentioned, has been very keen, and the last job we are familiar with was the Mayport navy work managed by the Army Engineers in which even at the end of this bidding cycle, we had some seven small business dredging companies respond, and all seven of them were below the Government estimate.

So I think the Army is doing a good job in breaking up the work, if that is the term we want to use, or packaging the work to make them available to the dredging contractors that are in the marketplace.

Our concern is I think those companies outside this area of the country—the gulf coast, the west coast, and even in the North Atlantic States—are having a hard time because large business concerns, over time, have virtually eliminated the small business market.

I think the efforts there need to be to expand that market. I think the reason we have got a viable market in our area is because we have a lot of companies, and we have a lot of jobs, and we have a lot of competition.

Mr. MITCHELL. You are a well established company.

Mr. HULL. I am second generation; yes, sir.

Mr. MITCHELL. I am going to ask everyone the same question.

Mr. HULL. Mr. Cottrell is second generation also.

Mr. MITCHELL. All right.

Over the past 2 years, how many contracts have you not even gone after because they have been too big for you? Can you give me a guesstimate?

Mr. HULL. I would say probably a dozen, if I had to give an off-the-cuff; probably a dozen.

Mr. MITCHELL. What about you, Mr. Jones? Oh, I am sorry.

Mr. HULL. May I say, the ones that we have gone after, number about 50. So we have to put that into perspective.

Mr. MITCHELL. All right.

Mr. HULL. We have gone after a lot.

Mr. MITCHELL. There have been about a dozen that have been just too big for you to even shoot for?

Mr. HULL. Yes, sir.

Mr. MITCHELL. OK.

Mr. COTTRELL. Mr. Chairman, we are a smaller company than Mr. Hull's company, and I would say probably, just guessing, in the last year we have not gone after two-thirds of the jobs that have come out.

Mr. MITCHELL. Because———

Mr. COTTRELL. Because the jobs are just too big.

Mr. MITCHELL. Mr. Jones? Let's put it to the last year. I said 2 years. Let's put it to a year.

Mr. JONES. I would be guessing. I would say maybe 50 or 60 percent are too large for us.

Mr. MITCHELL. Mr. Hill?

Mr. HILL. Mr. Chairman, I am probably the smallest dredging contractor sitting at this table; at least I know I am. Mr. Cottrell is a giant, and Atkinson's a giant compared to me. That doesn't mean they are giants in the industry, but they are compared to me.

Mr. MITCHELL. Relative giants.

Mr. HILL. The point is, I can bid mainly shallow draft projects because of the type of equipment I have. If you are including all of procurements to come out through the Corps of Engineers, maybe there's 20 or 30 that I cannot bid.

I would say I might bid 20 percent of the work that comes out, if I am able to bid.

Mr. MITCHELL. OK. Mr. Ware?

Mr. WARE. I think we are in the same category with Mr. Hull. We cannot bid the hopper work; we cannot bid what you call the rock cutter work. And if he says there were a half a dozen of those, I mean a dozen of them, we were in the same position, but we were not able to compete for the 50 that he did.

I would like to explain; I think your question involves this. For Kings Bay, the Government estimated the small business set-aside to be $9 million, and it was restricted to small business. A small business concern was the successful bidder for the $6 million-plus job.

I think that is what Mr. Jones is speaking of. Mr. Jones and Mr. Hill, I believe it is. That job may as well not be available to them. What he is saying is when the job comes out that is of the type—when he speaks of a shallow dredging job—and when Mr. Jones speaks of a job that he is capable, he has to compete with Mr. Hull and Mr. Cottrell, and the seven sophisticated so-called small dredging concerns, which they cannot do.

Mr. MITCHELL. I think what I was trying to get at is whether you really could consider in any fair fashion any change in the size standard without an accompanying change in packaging.

Mr. HULL. Mr. Chairman?

Mr. MITCHELL. Be with you in just a moment.

It just seems to me that the problem is twofold, really. A size standard fair enough to let the smallest of the small in and get some business. If you put the size standard down to $5 million and yet at the same time you don't make some adjustment in the nature of the contracts that are let out, then you really have benefited. That is the point that I am trying to get to.

Yes, Mr. Hull.

Mr. HULL. Mr. Chairman, there is a little more than the natural breaking up of a project, it is also the mechanics or the dynamics of the job. We can bid on small projects that might be deep digging, so they are small in volume of material and small in total contract dollar volume, because our equipment is suitable for that.

So it is not just the breaking up and bidding of these smaller projects. You have got to analyze the nature of that particular work. We don't bid, for example, on contracts which a 12-inch dredge can do more efficiently. For one thing, it would be difficult for us to dig that shallow, and secondly our operating costs would exceed those of the smaller dredge, and we wouldn't be competitive.

So I think that we have got dynamics within the industry that kind of level out so that we don't need to—and dredging is a unique specialty-type work. So the marketplace in many instances takes care of the response to the project. If we keep looking at things we will find that dredge A is good for that job, dredge B is good for that one, and on and on and on.

So if we try to look at it like the small, medium, and large, then we are just going to categorize something that doesn't need to be categorized.

We do not interface with the 12-inch dredge, very seldom. I don't want to say never—never say never—as the case may be. But very seldom do we interface with the 12-inch dredge.

But we have very much difficulty in competing with Norfolk Dredging and their 22-inch dredge Pullen—we have a lot of difficulty with that. That is surely a large dredge, no question about it.

We can't even hope to compete with a 27-inch dredge which is more or less the standard size dredge for the large dredging companies. Incidentally, these large dredging companies are not just dredgers, they do a lot of other things. Williams-McWilliams is a beautiful example of that. Their division is Zapata Industries, which is almost a half a billion dollar company.

Mr. MITCHELL. Yes.

Mr. HULL. So when you are talking about large, you are talking about very large. When you talk about small in comparison, you are talking about very small.

Mr. MITCHELL. I suppose I should know this. Approximately how many dredging companies are there in this Nation? Does anyone have any idea?

Mr. HULL. It is difficult. Who are you going to talk to? We did participate in an advisory capacity with the task force sponsored by SBA, and they identified 130.

Mr. MITCHELL. 130?

Mr. HULL. Yes, sir. In our national association we have 22 members; among our regional Southeastern Dredge Owners we have 10 members, for example.

Mr. MITCHELL. I wanted to try to get some idea because several people have referred to dredging companies going out of business.

Mr. HULL. Yes, sir.

Mr. MITCHELL. I think it was you, Mr. Hull, who said a significant number of the larger companies have gone out of business. What would be the universe of the larger companies, what are you talking about?

Mr. HULL. If I named them, it may mean——

Mr. MITCHELL. Would it be 10, 12?

Mr. HULL. Or four. Atlantic, Gulf and Pacific; Gahagen, Standard, Arundel went out of the dredging business. Those are four companies in the last decade.

Mr. MITCHELL. OK. Did they go out of business because of the size standard or——

Mr. HULL. They were large business companies.

Mr. MITCHELL. Right. Did they go out of business because maybe they wanted to shift to another business or something?

Mr. HULL. In the case of Arundel, they divested themselves in the dredging industry. In the case of Gahagen, I think they just ran out of steam. It was one of the founding companies of our industry at the turn of the century. I think they just ran out of steam, they didn't keep up with the market, and their equipment. I think they ran out of good management people.

I am not sure what happened to AG&P—Atlantic, Gulf and Pacific. We are told they had a very bad experience in Marseilles in resources.

In the case of Standard, I think they took some bad risks as well, and they sold out to an international firm.

Mr. MITCHELL. How many of the smaller ones have gone out of business, to the best of your knowledge?

Mr. HILL. In my area I know of three or four.

Mr. MITCHELL. Why?

Mr. HILL. I think mainly because of the set-aside program. I think that in our area we have some few middle-sized firms that will work very close with no profit until a lot of these small firms are gone.

Mr. MITCHELL. OK.

Thank you, gentlemen.

Any final comments from any of the witnesses? Yes.

Mr. HULL. I am very verbose, Mr. Chairman, I apologize.

Mr. MITCHELL. That is all right.

Mr. HULL. This last year has been really a dynamic one for our industry because you learn every day—and we have seen in the marketplace newer companies emerging—new companies emerging. So we see that it is a growing industry.

On the other hand, administratively, I have never seen so many companies coming out of the woodwork as I have in these lists of companies that we see here today, and I have never seen many of them on a bidders list before. So I really think this is an effort to promote companies which heretofore have not had an interest in the Federal procurement system. I am really amazed at that.

Mr. MITCHELL. That is not necessarily bad, is it?

Mr. **Hull**. No, it is not necessarily bad but I am learning something every day, and I hope to see them at the bidding table, and not just administratively.

Mr. **Jones**. I would like to make one comment in response to a comment about the inflationary need to raise the standard, and I would encourage the SBA to recognize that the inflation problem applies to all contractors, large and small; we all experience that.

In our area particularly, look at some of the prices. I can name one job in particular that for the last 6 years has gone in price, every year. Dredging jobs are repetitive—on an annual basis, a lot of them. I can think of several jobs that are like that one in particular which have gone down every year.

Mr. **Mitchell**. Gentlemen, thank you. You have given me a very good education. I hope you were here when we took the earlier testimony this morning. I hope we can resolve this thing quickly and equitably. I just don't think you should be left out on tender hooks since 1978, or whenever it was, when you first testified.

So I have learned quite a bit about dredging. I will probably be asking some more questions of you later on. Thank you very much.

Mr. **Molinari**. Mr. Chairman?

Mr. **Mitchell**. I am sorry, Mr. Molinari, I meant to recognize you. You came in a bit late and I made a note to recognize you when you did come in. I am delighted that you joined us.

Mr. **Molinari**. Thank you, Mr. Chairman. I am sorry I am late, but as you know, there are a number of meetings simultaneously.

Rather than take the subcommittee's time and the witnesses' time, I would rather submit to the panel questions that have been prepared by the minority members of the committee.

I would like to ask one simple question. Mr. Hull, in your testimony there seems to be an air of mystery about this Dredging Industry Size Standards Committee. The question I have simply is, any of the members of the panel here willing to admit that they are members of this mysterious Dredging Industry Size Standards Committee?

Mr. **Reeder**. Sir, let me respond to that. We represent the Dredging Industry——

Mr. **Mitchell**. May I have your name and so forth for the record?

TESTIMONY OF JOE R. REEDER ON BEHALF OF THE DREDGING INDUSTRY SIZE STANDARDS COMMITTEE

Mr. **Reeder**. Yes, Mr. Chairman, my name is Joe Reeder. Since 1979, we have represented the Dredging Industry Size Standards Committee. An excellent question, I don't believe I can name all of them now. No one ever before has asked, I believe, but the corps knows who they are, the SBA knows who they are, and we are certainly glad to supply the record with their names.

Mr. **Molinari**. What is your role? You represent them, did you say?

Mr. **Reeder**. Yes, sir, I do.

Mr. **Molinari**. Your law firm?

Mr. **Reeder**. Yes, sir; I do. I represent the law firm that Mr. Hull referred to, and simply to say in response to Mr. Hull's frustration, I think it is shameful that small businesses such as California Dredging and Barnegat Bay Dredging cannot rely on the SBA, but have to rely on some support from large businesses and outside representation in order to be heard. That, I think, is the case.

Mr. MOLINARI. I would like to just ask you one or two specifics for the record, then, if I may.

What is the name of your law firm?

Mr. REEDER. My law firm was named by Mr. Hull. It is Patton, Boggs & Blow.

Mr. MOLINARI. OK. You do have information, I think you said, was 15——

Mr. HULL. Fifteen small companies and seven large.

Mr. MOLINARI. Small companies and seven large.

Mr. HULL. Yes, sir.

Mr. REEDER. It is a good deal more than 15 small but we can supply the record with the names of those firms.

Mr. MOLINARI. Could you tell us from memory some of them?

Mr. REEDER. Yes, I can tell you. You weren't here for the testimony, but you heard California Dredging.

Mr. JONES. Yes, I am not a member of DISSC.

Mr. REEDER. I thought you were.

Mr. JONES. No.

Mr. REEDER. Barnegat Bay Dredging, represented by Mr. Hill; Spicker Dredging, Northampton Dredging, Florida Dredging. I believe I can get a list and read through this.

Mr. MOLINARI. I appreciate that. Would you break them down into those that——

Mr. REEDER. Seven of them have testified at the regional hearings; seven of the members, and they each identified themselves as members of DISSC. No one has asked before you.

Mr. MOLINARI. Why was it, Mr. Hull, in your testimony, and you extemporize there too, indicating that there was some doubt as to the membership?

Mr. HULL. The only document I have seen is the original petition which identified the seven large and the small in numbers only. When DISSC comes up, it comes up as DISSC—it never comes up as representing company A, B, or C.

I can only guess but I think Mr. Reeder can probably enumerate more than 4 out of the 22 if you were to ask him again.

Mr. REEDER. Well, I can and we can take——

Mr. MITCHELL. If I may, gentlemen, and I certainly don't want to interfere with your time, but I don't see any particular advantage of pursuing this back-and-forth situation when you agree to submit to this subcommittee a list of the membership; is that correct?

Mr. REEDER. Yes, Mr. Chairman. We are happy to do that. For that matter, we don't know the members of the Southeastern Dredge Owners Association. I haven't asked. I am sure Mr. Hull would tell me if I did ask. They haven't asked the members of DISSC—we are happy to, it is no mystery.

Mr. MOLINARI. That may be but I see a difference. We are talking about a committee that is formed to deal specifically with industry size standards which is the subject that we are discussing here today.

Could you just answer me this question. How long has this committee been in existence?

Mr. **Reeder**. Mr. Molinari, it has been in existence since, I believe, September 1979. Now, we officially submitted a petition to the SBA in December 1979, and since that time there have been a large number of firms that have joined, in addition to the original members, so the number is larger now. There are not as many large businesses because they are not as interested as the small businesses are.

Mr. Jones indicated he wasn't a member of DISSC but I am certain if he could be, his philosophy in his testimony is precisely the same as the members of DISSC, and if he were to ever ask. We haven't made a concerted effort to formally cause folks to join. You have the testimony of Mr. Ware, and he has attached to his testimony at least 15 different companies. Some of those companies that are attached that are supporting lower size standards are members of DISSC, some are not.

We simply have not gone out and said join DISSC. We are encouraged by other firms that are interested in supporting our views because we think they are correct.

Mr. **Molinari**. You have a total number of membership today?

Mr. **Reeder**. We do, and I want to stress it is not a formal relationship but you can confirm independently of me with each and every firm that we identify, whether or not they feel they are formally members or simply supportive. I think Mr. Jones could be a member as we walk out the door if it were important to us, or it was important to you that he be a member of DISSC.

Mr. **Molinari**. I am just trying to get some background. Do they pay to join this committee?

Mr. **Reeder**. Pardon?

Mr. **Molinari**. Is there payment?

Mr. **Reeder**. Yes, they do, and I am sure that Mr. Hull is represented by a law firm in Chicago, a 150-man law firm. I am sure they pay for that too. It is a firm that is about twice the size of Patton, Boggs & Blow.

Mr. **Molinari**. The reason I asked is because you seem to indicate—if I understood you correctly—is a lack of structure here. It was kind of an informal type of structure.

Mr. **Reeder**. That is true.

Mr. **Molinari**. But there is a membership; they file a membership application; they are granted some kind of a document that indicates they are a recognized member and they pay certain dues. I think assessments——

Mr. **Reeder**. Mr. Molinari, at the outset of DISSC that was the case. And since that time there have been firms that have asked to join, and I think we have acknowledged that in writing. Whether we executed formal documentation to embody them in this organization, I don't know.

Mr. **Molinari**. But you will furnish to this subcommittee a list of members.

Mr. **Reeder**. I would be happy to do that, and also a list of other firms that we think are affiliated in the sense of their testimony. We have had many, many small firms that have asked us.

Mr. **Jones**. I would be glad to submit a group from California.

Mr. MITCHELL. Wait a minute now. Could I get some clarification?

It seems to me that what you really want is a present membership of DISSC rather than an enlarged membership based upon those who might be affiliated simply based on testimony. Is that what you are really looking for?

Mr. MOLINARI. Yes. What I understood was that he was going to list these. I am glad you asked that question so that we elicit the proper response. It is my understanding that he will submit to us present membership—those in the category of large, those in the category of small, and affiliated ones in a separate category.

Mr. REEDER. I will tell you, I have no qualms identifying the large firms. To be very frank with you, the reason we didn't identify all of the small firms is that some of them didn't want to be harassed by other firms with whom they compete, and midsized firms, they can literally rub them out of business.

I have represented one firm that is going out of business now down in Alabama. Neimer has had to sell its dredges. They don't want to be harassed by midsized firms and they don't want to be lobbied by them. They are on record in comments submitted to the SBA. These comments are all available to anyone that asks from the SBA, and it is unavailable because of the Freedom of Information Act.

Mr. MOLINARI. Now you have me totally confused. You jumped up to the table and expressed the willingness to give us the information and it seemed like this was something that was readily available, the way you spoke. Sure, I don't have it readily available but I would be happy to furnish it to you. Now you are expressing a reluctance because of the question that maybe some of these smaller firms that might be hurt in the conduct of their business.

Mr. REEDER. Expressing no reluctance, Mr. Molinari. Explaining why the reluctance in the past, I have told you that we will supply you with the names. From memory now, I think I can get the vast majority right here, if right after this hearing you would like me to go to a document and give you the names, I am happy to do that. We have no reluctance at this time. I came to the table to make that clear.

Mr. MOLINARI. Did you not just say that some of your smaller members are reluctant to have their names publicized because of the fact that they might find themselves harassed and put out of business?

I wouldn't want that to happen when I make a request——

Mr. REEDER. I don't either, and what I think I have said—and if I didn't, I intended—was that they were concerned with that. Whether they presently have that concern or not, I don't know.

We simply haven't discussed it. No one has ever asked the membership of DISSC.

Mr. MOLINARI. What is going to happen if some of your small members say they don't want to be identified?

Mr. REEDER. You have made a commitment and conjecture and say that the same thing could happen as happened with some suppliers in Virginia who wrote letters to the SBA—and this is a matter of record because I think Mr. Canellas knows about this—saying that they supported what Mr. Hull's groups supports, or they supported what Mr. Ware testified to, and that is that the size standard should be lowered. Right after their comments came in, somehow they got in the hands of the folks at the other end of the table—they were contacted by telephone, and pressured very hard. In some instances they were left to believe that their role as a supplier may be in jeopardy, if they take a position on the dredging size standard.

Mr. MITCHELL. Would the gentleman yield to me?

Mr. MOLINARI. I would be happy to yield to you.

Mr. MITCHELL. Let me inquire of staff: Is it possible for that list, which is to be submitted to us broken down into two categories, bona fide membership and affiliates? Is it not possible for that to be classified as confidential for members only?

Mr. MOLINARI. Do you have a comment on that?

Mr. MITCHELL. I am trying to get some information from staff to try to protect the interests that you want to protect.

Mr. MOLINARI. I think since he represents them, Mr. Chairman, he may not require that. If he doesn't require it, I understand, and I appreciate what you are saying. I am just looking for a comment here as to whether you believe that.

Mr. REEDER. I think we can resolve it in this way: I think I can provide you publicly, with no restriction, the names of all the firms that don't mind being identified. To the extent that there are firms that do mind and don't want to be on the wrong end of untoward pressure, I will supply you with an additional list of those names. I would ask you simply to accord it the confidence in which it is given.

Mr. MITCHELL. That is satisfactory with me.

Mr. WARE. Can we say that Norfolk Dredging is not a member of DISSC, not now, nor has it been previously.

Mr. JONES. As a small business company, we are not, and we have not even been approached. It looks like a vital topic of interest that we have not even been approached.

Mr. WARE. We haven't been approached either.

Mr. HULL. Neither have I.

Mr. REEDER. There are many firms that we haven't approached, and Mr. Hull wasn't approached for obvious reasons because we don't think Mr. Hull should continue to be a small business, and he does. He wouldn't want to join DISSC, I don't think. I offer him the opportunity to join DISSC at this time if he would like to.

Mr. MOLINARI. Mr. Jones has indicated that you are considering joining, is that what you said before?

Mr. JONES. No, I said I have not been invited to join. I hadn't, frankly, really considered it. I have my position and some people back in California that I represent, and we happen to have the same goal.

Mr. MITCHELL. Thank you very, very much. Are you counsel of the DISSC?

Mr. REEDER. Yes, sir, I am.

Mr. MITCHELL. Could you see me just briefly before we hear from our last witnesses?

Mr. REEDER. Yes, sir.

Mr. MITCHELL. It is on a procedural matter that the staff advises as to how you are to handle this internally.

Mr. **Reeder**. Yes, sir.

Mr. **Mitchell**. OK. Thank you very much for your participation. Will our next two witnesses come up? Patrick Hurley is vice president of J. E. Hurley Machine & Boiler Works, Inc.; and R. E. Camosy is president of Camosy Construction Co.

I want to thank you gentlemen, you have been very, very patient as the last witnesses, and the hour is late and perhaps you might be a little hungry, but that is all right. I appreciate your staying with us.

We have received copies of your testimony and if you so desire, you can simply give the highlights of your testimony but the entire submission of testimony will be entered into the permanent record of this hearing.

Mr. Hurley?

TESTIMONY OF PATRICK L. HURLEY, VICE PRESIDENT, J. E. HURLEY MACHINE & BOILER WORKS, INC.; ACCOMPANIED BY JOHN P. CONNORS, ATTORNEY

Mr. **Hurley**. Yes.

Mr. Chairman, members of the subcommittee, my name is Patrick L. Hurley. I am vice president of J. E. Hurley Machine & Boiler Works, Inc. Accompanying me this morning is John P. Connors of the law firm of Hanson, O'Brien, Birney & Butler. I wish to thank you for the opportunity to appear before this subcommittee to express my views on a subject which is very important to the small business sector of the U.S. economy.

J. E. Hurley Machine & Boiler Works was established in 1880 and performs boiler repair and related work classified under the U.S. Small Business Administration's regulations as that of special trade contractors.

The company maintains offices in Washington, D.C.; Lorton, Va.; and Hyattsville, Md., and currently employs approximately 100 persons on a full-time basis, but expands its work force to complete work on specific contracts.

Our company has had a long history of performing Government contracts. In fact, since our inception we have performed work at almost every Federal installation in this area dating back to the time when the billable rate for mechanic's work was 35 cents per hour.

We have always prided ourselves on the caliber of our work and have never failed to complete any Government contract to the satisfaction of the particular procuring activity.

The number of contracts which we have been awarded and successfully performed are too numerous to mention here.

However, we are currently completing large contracts at Patuxent Naval Air Station, the Army Arsenal at Radford, Va., and St. Julian's Creek Annex at the Norfolk Naval Base.

Over the past 6 years, the company has been engaged in the extensive upgrading and repairing of local public utility systems mandated by the Environmental Protection Agency. The bulk of this work has now been completed and no future contracts in this area are expected.

However, performance of such work has resulted in an approximate 40-percent increase in company revenues. This increase in revenue, usually a welcome occurrence for any business, has, in fact, acted to our detriment as we are now slightly over the size standard currently in effect for special trade contractors. Therefore, we have been eliminated from bidding upon small business set-aside contracts.

At the present time, the SBA size standard in effect for special trade contractors threatens to adversely affect our operations. A large number of contracts involving our particular trade are now proposed to be issued as SBA set-aside contracts by various procuring activities.

If the current size standard remains in effect, our company will not be permitted to even bid upon such contracts.

Conversely, if the SBA size standard is raised to $9 million, as provided in the proposed regulations, we would be able to materially expand our operations as we would expect to be awarded a number of such contracts. This would mean an ability to expand our apprenticeship program and significantly increase the number of persons, both skilled and semi-skilled, we could employ.

It would also give us the flexibility needed to move current employees who have started at the lower end of the labor force and advance them into our apprenticeship program. Historically, we have found that a majority of employees who complete our company-sponsored apprenticeship program remain with us as skilled full-time employees thus benefiting the company, themselves, and the U.S. economy in general.

Since the SBA adopted its current size standards for special trade contractors in November 1977, we have witnessed a 77.2 percent increase in labor and labor-related costs and increased material costs, primarily for domestically produced steel between 24 and 30 percent.

Although we have absorbed some of these increases, it has become necessary to pass along a portion of such costs to our customers, including the U.S. Government, in the form of higher bids.

The spiral of inflation and increases in wage and labor costs which have resulted in these higher bids have ultimately and, quite naturally, led to increased revenues with the concomitant result that we are now disqualified for participating in the SBA set-aside contract program. We feel that the SBA should adjust its size standards to keep pace with these increases.

This could be done by adopting the proposed rule or revamping the entire size standard system by implementing a formula similar to that used by the Department of Labor in calculating wage rates for Davis-Bacon Act purposes. Such rates are constantly adjusted upward to reflect wage increases contained in local labor union contracts.

As an alternative to finalizing the proposed rule, we suggest that this subcommittee study the advisability of increasing size standards consistent with a mathematical formula determined by increases in the cost of living, union wage rates, and inflation.

As we are all aware, the small business sector is the most vital area of the American economy. It is the area of innovation and invention. The expansion and nurturing of the small business sector would lead the way to easing the burdens of unemployment and welfare from the shoulders of the American taxpayer and, through technological innovation, will restore dignity to unemployed individuals who may again become gainfully employed.

I urge this subcommittee and the Congress to take whatever actions necessary to ensure that these proposed regulations become final and thus permit the continued expansion and growth of our country's most vital type of business the small business.

Mr. Chairman, I wish to thank you and the subcommittee to permit me to testify before you today. I would be happy to answer any questions that you may have.

Mr. MITCHELL. Thank you for your testimony and I will have at least one question.

May we hear from the other witness and then we will put questions to both of you.

[Mr. Hurley's prepared statement follows:]

PREPARED STATEMENT OF PATRICK L. HURLEY, VICE PRESIDENT, J. E. HURLEY MACHINE & BOILER WORKS, INC.

Mr. Chairman, Members of the Subcommittee, my name is Patrick L. Hurley. I am vice president of J.E. Hurley Machine & Boiler Works, Inc. I wish to thank you for the opportunity to appear before this Subcommittee to express my views on a subject which is very important to the small business sector of the U.S. economy.

J.E. Hurley Machine & Boiler Works, Inc., was established in 1880 and performs boiler repair and related work classified under U.S. Small Business Administration (SBA), regulations as that of special trade contractors. The company maintains offices in Washington, D.C., Lorton, Virginia, and Hyattsville, Maryland and currently employs approximately 100 persons on a full-time basis, but expands its work force to complete work on specific contracts.

Our company has had a long history of performing government contracts. In fact, since our inception we have performed work at almost every Federal installation in this area dating back to the time when the billable rate for mechanic's work was 35 cents per hour.

We have always prided ourselves on the caliber of our work and have never failed to complete any government contract to the satisfaction of the particular procuring activity. The number of contracts which we have been awarded and successfully performed are too numerous to mention here. However, we are currently completing large contracts at Patuxent Naval Air Station, the Army Arsenal at Radford, Virginia, and St. Julian's Creek Annex at the Norfolk Naval Base.

Over the past six years, the company has been engaged in the extensive upgrading and repairing of local public utility systems mandated by the Environmental Protection Agency. The bulk of this work has now been completed and no future contracts in this area are expected. However, performance of such work has resulted in an approximate 40 percent increase in company revenue. This increase in revenue, usually a welcome occurrence for any business, has, in fact, acted to our detriment as we are now slightly over the size standard currently in effect for special trade contractors. Therefore, we have been eliminated from bidding upon small business set aside contracts.

At the present time, the SBA size standard in effect for special trade contractors threatens to adversely effect our operations. A large number of contracts involving our particular trade are now proposed to be issued as SBA set aside contracts by various procuring activities. If the current size standard remains in effect, our company will not be permitted to even bid upon such contracts.

Conversely, if the SBA size standard is raised to 9 million dollars, as provided in the proposed regulations, we would be able to materially expand our operations as we would expect to be awarded a number of such contracts. This would mean an ability to expand our apprenticeship program and significantly increase the number of persons, both skilled and semi-skilled, we could employ. It would also give us the flexibility needed to move current employees who have started at the lower end of the labor force and advance them into our apprenticeship program. Historically, we have found that a majority of employees who complete our company-sponsored apprenticeship program remain with us as skilled full-time employees thus benefiting the company, themselves, and the economy in general.

Since SBA adopted its current size standards for special trade contractors in November 1975, we have witnessed a 77.2 percent increase in labor and labor-related costs and increased material costs, primarily for domestically produced steel, of between 24 and 30 percent. Although we have absorbed some of these increases, it has become necessary to pass along a portion of such costs to our customers, including the United States Government, in the form of higher bids. The spiral of inflation and increases in wage and labor costs which have resulted in these higher bids have ultimately and, quite naturally, lead to increased revenues with the concommitant result that we are now disqualified for participating in the SBA set aside contract program. We feel that the SBA should adjust its size standards to keep pace with these increases.

This could be done by adopting the proposed rule or revamping the entire size standand system by implementing a formula similar to that used by the Department of Labor in calculating wage rates for Davis Bacon Act purposes. Such rates are constantly adjusted upward to reflect wage increases contained in local labor union contracts. As an alternative to finalizing the proposed rule, we suggest that this Subcommittee study the advisability of increasing size standards consistent with a mathmatical formula determined by increases in the cost of living, union wage rates, and inflation.

As we are all aware, the small business sector is the most vital area of the American economy. It is the area of innovation and invention. The expansion and nurturing of the small business sector would lead the way to easing the burdens of unemployment and welfare from the shoulders of the American taxpayer and, through technological innovation, will restore dignity to unemployed individuals who may again become gainfully employed.

I urge this Subcommittee and the Congress to take whatever actions necessary to insure that these proposed regulations become final and thus permit the continued expansion and growth of our country's most vital type of business...the small business.

Mr. Chairman, I wish to thank you and the Subcommittee again for permitting me to testify before you today and I would be happy to answer any questions you or the other members may now have.

TESTIMONY OF R. E. CAMOSY, PRESIDENT, CAMOSY, INC., ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

Mr. CAMOSY. Thank you, Mr. Chairman, for this opportunity to testify to the Small Business Committee this morning. My name is Ray Camosy, and I am president of Camosy, Inc., a general construction company from Kenosha, Wis. With me is Brian Deery, the assistant director of utilities for the Associated General Contractors of America staff.

Mr. MITCHELL. May I interrupt you for just a moment for a point of clarification?

Are you representing the Association of General Contractors in your testimony, or just your business?

Mr. CAMOSY. I am representing both, Mr. Chairman.

Mr. MITCHELL. Both. All right.

Mr. CAMOSY. Today I am here to voice my opinion regarding certain abuses which the general public, the construction industry, and my own company are suffering under because of legislative, executive, and judicial activities of the Small Business Administration regarding their implementation of the set-aside program in the construction industry.

Maybe I should apologize in advance, Mr. Chairman. I have some sharp words but I have undertaken a 5-year crusade and I have been here in Washington before. I have written at least a hundred letters, and I am frustrated also.

I also represent the Associated General Contractors of America, an association of 32,000 firms, including 8,300 general contractors. AGC's membership is made up of over 90 percent small businesses.

Despite this fact, the AGC membership has on countless occasions endorsed the message I bring to you today, the small business set-aside program is not needed in the construction industry.

Yes, I certainly can agree that small businesses are a necessary and a vital ingredient to competition in the construction industry as well as an important factor to the economic health of industry and commerce throughout the United States.

Where we may differ with this committee, however, is identifying what role, if any, the Government should play in promoting small businesses. The method that has been selected, the set-aside program, has so many problems and inequities that it should clearly not be the method of choice for the construction industry.

One of the primary problems with the set-aside program is a subject of today's hearings. How does one determine eligibility for the program? Setting a size standard, as we listened to this morning, to determine eligibility is at best arbitrary; and at worst, highly damaging to firms that do not fit the definition, and we have heard from them.

To get a very clear picture of just how arbitrary setting size standards can be, one need only to look at the various size proposals the Small Business Administration has made over the past 3 years. Since 1975, to qualify, as a small business general construction firm, a company's 3-year average annual volume must not have exceeded $12 million.

In 1980, SBA proposed a size standard based on the number of employees.

In 1982, SBA proposed raising the existing volume standard on an emergency basis from $12 million to $15 million, but this attempt was rejected by the Office of Management and Budget. Soon after this rejection, SBA proposed a multitude of different size standards based on different construction categories. The current proposal seeks to raise the volume standard to $21.5 million of annual volume. I have a hard time with that.

The set-aside affiliate provision provides further evidence of the arbitrariness of the set-aside definition in the construction industry.

For instance, under the proposed new size standard, a $21 million construction firm would be deemed "small," and, therefore, eligible for the set-aside program.

However, a $5 million construction firm with additional volume of $10 million generated by an affiliated automotive parts and supply business, and another $10 million in volume generated possibly by an affiliated shoe store, would be ineligible because the total volume of affiliates, even though completely unrelated to construction, would place the firm above the $21.5 million limit.

SBA, obviously, has no clear idea of what a small business is in the construction industry, and yet the arbitrary decision which they reach has a devastating impact on those firms which do not qualify.

My business operates primarily in a two-state region, northeastern Illinois and southeastern Wisconsin. It has grown over its 73-year history, and I am the second generation, and we have the third generation on board now. It has grown by following a conservative business philosophy which included no dividends, and results today in a consolidated average annual volume of approximately $38.5 million. We are careful in the projects we select to bid, to be sure that they are within our capabilities at the time. This means that the size and type of project we bid changes according to different variables.

The set-aside program, however, by restricting us from competing for certain projects, upsets this business strategy and results in a severely reduced construction market which could threaten my company's survival. Because of the dollar volume standard, it would take 2 to 3 years of severely reduced sales for us to qualify for bidding on these vital projects and, gentlemen, I doubt that we could survive that long. The inequity of the program becomes clearer when it is realized that many of my toughest competitors are eligible for the most recent set-aside program but my firm is not.

The manner in which the Federal procurement agencies administer the program has resulted in contracts as large as $10 million being set aside.

If I may digress a moment, gentlemen, a $10 million job in construction for Federal work has got to be bonded. Before a bonding company or surety company will write a bond for $10 million, that company has got to have approximately $1 million in quick assets, plus the capabilities in staff, organization, machinery, and equipment. If that company is considered small and weak and needs our protection, then we are mistaken. A $10 million project is extremely large for my company.

Statistics issued by the Federal procurement data system reveal that a shocking 60 percent of all Federal construction contracts—in numbers, gentlemen—in fiscal year 1981 and 1982 were unavailable for open, unrestricted competition due to SBA's set-aside and 8(a) programs.

Within the Department of Defense, 63 percent of all construction contracts were unavailable and within the Naval Facilities Engineering Command, a staggering 77 percent of its construction contracts in fiscal year 1981 were unavailable for open competition because of these programs. Now these figures cover the national picture, but they do not necessarily portray what can happen on a regional basis.

In my two-State area, the usual practice for Federal agencies is to set aside as much as 90 percent of available contracts. The contracts above the $10 million that I referred to earlier are very few and far between. That is why that 90 percent figure prevails.

This means that many of my competitors, under the new proposed size standards have a great market in which to compete and, therefore, a greater likelihood of success than have I. It also means that open, unrestricted competition is becoming a thing of the past. The Federal Government and the SBA have clearly become my enemy and will soon drive me out of business. What is particularly troubling is that the administration of the Small Business Act is contrary to its stated intent. The overriding theme in the Small Business Act is a desire to strike a balance in the award of Federal contracts.

As the act states,

> The essence of the American economic system is free competition. . . . The preservation and expansion of such competition is basic not only to the economic wellbeing but to the security of the Nation.

The set-aside program destroys this free competition. Therefore, in my opinion, it is contrary to the intent of this act. The construction industry has many unique characteristics that have allowed it to become truly a small business industry, and these same characteristics insure that it will remain so. This has come about not through Government intervention but despite it.

Here is an important point. In the private construction market there is no such thing as a small business set-aside; here the open competitive bid system dominates, and yet, small businesses continue to thrive and flourish. The SBA chooses to ignore this fact.

A 1965 Department of Labor study identified the uniqueness of the construction industry which is as valid today as it was then. The study says:

> The application of any accepted economic indicators to the construction industry always results in the conclusion that this industry is ranked among the least concentrated and the most competitive.
>
> Operations in the construction industry reach efficient levels at relatively small size. The technology of the industry does not require large-scale operations and large capital costs, compared to industry in general, in order to achieve efficient operations.

The financial costs of entry to the industry are relatively low in many branches. Equipment may be rented, workmen typically furnish their own tools. In many cases, owners and clients may even advance part of the capital.

Construction enterprises have few fixed costs and move readily from locality to locality and even region to region, increasing materially the degree of competition in a single locality. Work opportunities attract bidders from far and wide.

The subcontracting system, and I think this is not understood by SBA, is characteristic of all construction projects, and enhances the competitive nature of the industry. Depending upon the type of construction, it is customary for a significant portion—60 to 70 percent—of prime construction contracts to be subcontracted to various specialty contractors who are typically smaller in size than the prime general contractors, and fall under the definition of small businesses when measured by dollar volume of work—a very important fact that has been brought to SBA's attention, and they choose to ignore that.

Clearly, whatever need may exist for set-asides in other industries and other types of procurement, they are simply not needed in the construction industry.

Limiting competition, as in the set-aside program, results in higher costs. A 1976 study, done for the Corps of Engineers, found that set-aside contracts averaged about 9 percent higher than contracts obtained through open, unrestricted competition.

This is why the Federal Government has always relied upon open competitive bidding, whenever possible, in the procurement of goods and services. As far back as 1809, the policy of the Federal Government has been to rely on free and open competition to assure the Government receives the lowest price in the procurement of goods and services. Virtually all States in the Union require open competitive bidding for the same reason.

In the past, AGC has urged a moratorium on the use of the small business set-aside program in construction to confirm our contention that the program is unneeded. This suggestion has not been implemented by SBA.

As an alternative, it is my opinion that a project volume limit not greater than $2 million be placed on the size of construction projects that can be set aside. This would limit set-asides to contracts that are truly of a size for small businesses and permit open competition on the remainder, to the benefit of the taxpaying public and in the interest of preserving free competition. We strongly urge that this project limit be implemented.

Further, in my opinion, based on 37 years as a general contractor, the definition of a small business should at most be one of a $3 million to $5 million average annual sales. Gentlemen, larger construction companies do not need the help, and the result would be a reduction and an administrative expense and a substantial savings in taxpayer dollars.

Since the Congress is responsible to oversee such an independent administrative agency as the SBA, which has enormous power concentrated under its control, I am pleased today to see this duty of overseeing is now being taken more seriously. A primary characteristic of an administrative agency should be one of specialization. I often wonder who the construction specialist for the Small Business Administration is, and what his or her qualifications may be, because, in my judgment, the rulemaking certainly implies that one does not in fact exist.

I know the time is drawing late, when almost 75 percent of all construction contracts go to small businesses under the old definition anyway, and when businesses that are not small are arbitrarily defined as small, it is time to call a halt. Let us not continue to merely and unquestioningly accept the pronouncements of our independent agencies, even when they are absurd, useless and self-serving. The SBA's philosophy obviously means to keep the set-aside policy in effect permanently, for no company can ever graduate as long as they keep raising the limits. Although we did hear of one dredging company graduate, and that has got to be an exception.

The construction set-aside system is a classic case of trying to fix something that is not broken.

Thank you, gentlemen, for your attention.

Mr. MITCHELL. Thank you very much for your testimony.

[Mr. Camosy's prepared statement follows:]

PREPARED STATEMENT OF R. E. CAMOSY, PRESIDENT, CAMOSY, INC., ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

I am Ray Camosy, President of Camosy Incorporated, a general construction company from Kenosha, Wisconsin. Today I am here to voice my opinion regarding certain abuses which the general public, the construction industry and my own company are suffering under, because of legislative, executive and judicial activities of the Small Business Administration regarding their implementation of the Set-Aside Program in the construction industry.

I represent the Associated General Contractors of America, an association of 32,000 firms including 8,300 general contractors. AGC's membership is made up of over 90 percent small businesses. Despite this fact, the AGC membership has on countless occasions endorsed the message I bring to you today --- the Small Business Set-Aside Program is not needed in the construction industry.

Small businesses are a necessary and vital ingredient to competition in the construction industry, as well as an important factor to the economic health of industry and commerce throughout the United States. Where we may differ with this committee, however, is in identifying what role, if any, the government should play in promoting small businesses. The method that has been selected, the Set-Aside Program, has so many problems and inequities that it should clearly not be the method of choice for the construction industry.

One of the primary problems with the Set-Aside Program is the subject of today's hearings --- how does one determine eligibility for the program? Setting a size standard to determine eligibility is at best arbitrary and at worst is highly damaging to firms that do not fit the definition. To get a very clear picture of just how arbitrary setting size standards can be, one need only look at the various size proposals the Small Business Administration has made over the past three years.

Since 1975, to qualify as a small business general construction firm, a company's three year average annual volume must not have exceeded $12 million. In 1980, SBA proposed a size standard based on the number of employees. In 1982, SBA proposed raising the existing volume standard on an "emergency basis" from $12 million to $15 million, but this attempt was rejected by the Office of Management and Budget. Soon after this rejection, SBA proposed a multitude of different size standards based on different construction categories. The current proposal seeks to raise the volume standard to $21.5 million. The Set-Aside affiliate provision provides further evidence of the arbitrariness of the Set-Aside definition in the construction industry. Under the proposed new size standard, a $21 million construction firm would be deemed "small", and therefore eligible for the Set-Aside Program. However, a $5 million construction firm with additional volume of $10 million generated by an affiliated automotive parts and supply business and another $10 million in volume generated by an affiliated shoe store would be ineligible because the total volume of affiliates, even though completely unrelated to construction, would place the firm above the $21.5 million limit. SBA has no clear idea of what a small business is in the construction industry, and yet the arbitrary decision which they reach has a devastating impact on those firms which do not qualify.

My business operates primarily in a two state region, Northeastern Illinois and Southeastern Wisconsin. It has grown over its 73 year history by following a conservative business philosophy which included no dividends, and results today in a consolidated average annual volume of approximately $38.5 million. We are careful in the projects we select to bid, to be sure that they are within our capabilities at the time. This means that the size and type of project we bid changes according to many different variables. The Set-Aside Program, however, by restricting us from competing for certain projects, upsets this business strategy and results in a severely reduced construction market which could threaten my company's survival. Because of the dollar volume standard, it would take two to three years of severely reduced sales for us to qualify for bidding on these vital projects, and I doubt that we could survive that long.

The inequity of the program becomes clearer when it is realized that many of my toughest competitors are eligible for the Set-Aside Program and more will become eligible if the recent size standard proposal is implemented; my firm, however, will not. The manner in which the federal procurement agencies administer the program has resulted in contracts as large as $10 million being set aside, and an increasing percentage of available contracts being set aside. Gentlemen, a $10 million project is extremely large for my company. Statistics issued by the Federal Procurement Data System reveal that a shocking 60 percent of all federal construction contracts in FY '81 and FY '82 were unavailable for open, unrestricted competition due to SBA's Set-Aside and 8(a) Programs. Within the Department of Defense, 63 percent of all construction contracts were unavailable and within the Naval Facilities Engineering Command, a staggering 77 percent of its construction contracts in FY '81 were unavailable for open competition because of these programs. These figures cover the national picture, but they do not necessarily portray what can happen on a regional basis. In my two-state area, the usual practice for federal agencies is to set-aside as much as 90 percent of available contracts. This means that many of my competitors under the new proposed size standards have a greater market in which to compete and therefore a much greater likelihood of success than have I. It also means that open, unrestricted competition is becoming a thing of the past.

What is particularly troubling is that the administration of the Small Business Act is contrary to its stated intent. The overriding theme in the Small Business Act is a desire to strike a balance in the award of federal contracts. As the Act states, "The essence of the American economic system is free competition....The preservation and expansion of such competition is basic not only to the economic well-being but to the security of this Nation." The Set-Aside Program destroys this free competition, therefore is blatantly contrary to the intent of this Act.

The construction industry has many unique characteristics that have allowed it to become truly a small business industry, and these same characteristics ensure that it will remain so. This has come about not through government intervention but despite it. In the private construction market there is no such thing as a small business set-aside; here the open competitive bid system dominates, and yet small businesses continue to thrive and flourish.

A 1965 Department of Labor study identified the uniqueness of the construction industry which is as valid today as it was then:

o The application of any accepted economic indicators to the construction industry results in the conclusion that this industry is ranked among the least concentrated and most competitive.

o Operations in the construction industry reach efficient levels at relatively small size. The technology of the industry does not require large scale operations and large capital costs, compared to industry generally, in order to achieve efficient operations.

o The financial costs of entry to the industry are relatively low in many branches. Equipment may be rented, workmen typically furnish their own tools. In many cases owners and clients may advance part of the capital.

o Construction enterprises have few fixed costs and move readily from locality to locality and even region to region, increasing materially the degree of competition in a single locality. Work opportunities attract bidders from far and wide.

o The subcontracting system characteristic of construction projects, enhances the competitive nature of the industry. It is customary for a significant proportion (depending on the type of construction, as much as 60%-70%) of prime construction contracts to be subcontracted to various specialty contractors who are typically smaller in size than prime general contractors, and fall under the definition of Small Business when measured by dollar volume of work.

Clearly, whatever need may exist for set-asides in other industries and other types of procurement, they are simply not needed in the construction industry.

Limiting competition, as in the Set-Aside Program, results in higher costs. A 1976 study done for the Corps of Engineers found that set-aside contracts averaged about 9% higher in price than contracts obtained through open unrestricted competition. This is why the Federal Government has always relied on open competitive bidding whenever possible in the procurement of goods and services. As far back as 1809, the policy of the Federal Government has been to rely on free and open competition to assure that the government receives the lowest price in the procurement of goods and services. Virtually all states require open competitive bidding for the same reason.

In the past, AGC has urged a moratorium on the use of the Small Business Set-Aside Program in construction to confirm our contention that the program is absolutely unneeded. This suggestion has not been implemented by SBA. As a short term alternative we urge that a project volume limit, not greater than $2 million, be placed on the size of construction projects that can be set-aside. This would limit set-asides to contracts that are truly of a size for small businesses and permit open competition on the remainder, to the benefit of the taxpaying public and in the interest of preserving free competition. We strongly urge that this project volume limit be implemented.

Since the Congress is responsible to oversee such an independent administrative agency as the SBA, which has enormous power concentrated under its control, I am pleased to see that this duty of overseeing is now being taken seriously. A primary characteristic of an administrative agency should be one of specialization. I often wonder who the "construction" specialist for the Small Business Administration is, and what his or her qualifications may be, because the rule-making certainly implies that one does not in fact exist.

When almost 75% of all construction contracts go to small businesses under the old definition anyway, and when businesses that are not small are arbitrarily defined as small, it is time to call a halt! We must not meekly and unquestioningly accept the pronouncements of our independent agencies, particularly when they become absurd, useless and self-serving. The SBA's philosophy obviously means to keep the "Set-Aside" policy in effect permanently, for no company can ever graduate as long as they keep raising the limits. The construction "Set-Aside" system is a classic case of trying to fix something that is not broken.

Thank you gentlemen for your attention and consideration to these very important criticisms and constructive alternatives.

Mr. MITCHELL. I have one or two questions.

You are advocating that the $9 million figure is desirable for you?

Mr. HURLEY. Yes, sir.

Mr. MITCHELL. OK.

I must confess that I do not know the special trades contracting construction business at all, but when you place it at $9 million, is that still a bona fide small business within this special trades group?

Mr. HURLEY. The way I am looking at it is if nothing has been revised since 1975 we are a union shop. We are in the boiler industry. Not all, but a lot of the contracts that come across our desk every week for either the Navy, the Army, any type of Government activity, is small business of $5 million. In our business, as I stated before, a 77-percent increase in the last 8 years of wages and materials has boosted us up over the $5 million mark that is set now. One of our problems is that we are bordering right on that mark of around $6 million. We are on the other side. A lot of our competition in the area is right below the other side.

Mr. MITCHELL. Please believe me. I am not unsympathetic to your plight. I just was trying to find out within this category what is small and what large.

Mr. HURLEY. I would say that to study the situation for the last 8 years, I mean, you could leave it at $5 million, but if you looked over the overall picture of the increases and inflation, wages and materials, I think an adjustment is now needed.

Mr. MITCHELL. All right.

Mr. Camosy, I am quite familiar with the position that has been taken by the Association of General Contractors. I receive all of your informational brochures and briefings and newsletters.

I am concerned that you are advocating in your testimony no set-asides under the 8(a) program for the small and disadvantaged minority businesses. Is that correct?

Mr. CAMOSY. No; that is not correct. I think I was using that in reference to the combination of those two programs result in *x* percent of contracts having been set-aside. No; we are not advocating that the program be disbanded.

Mr. MITCHELL. That concerned me just a little bit, because the way your testimony reads, I think the average person would draw the same conclusion that I did, that by combining the two, you are suggesting that it be eliminated.

Mr. CAMOSY. That is certainly not the intent. The intent, as I stated, is let's reduce the limits for both the projects that are being set aside and those in the definition of the small business concern.

Mr. MITCHELL. There are 32,000 firms represented in the Associated General Contractors; is that correct? Since you are representing the Associated General Contractors, could you tell me, of that 32,000 firms, how many of them are minority firms?

Mr. CAMOSY. I will bow to Mr. Deery on that.

Mr. DEERY. No, Mr. Chairman, we cannot. We have never asked that question of our members, so we do not have any breakdown.

Mr. MITCHELL. Isn't the fact of the matter that less than 2 percent minority firms are included in your 32,000? I am saying that based upon previous testimony that has been given to this committee. Would that be a fairly good approximation?

Mr. **Deery**. I couldn't answer that question. We have never undertaken a survey to determine the racial or ethnic background of the ownership of our membership.

Mr. **Mitchell**. I accept that, obviously. I remember attending a convention in Las Vegas of all places, of the Associated General Contractors. At that time, I raised the same question, and it was pointed out that there were, at that time, 5 years ago, less than 1 percent minority firms in the association.

Let me just raise a couple of other questions, if I may.

You made several references that with the Department of Defense, 63 percent of all construction contracts were unavailable, and within the Naval Facilities Engineering Command a staggering 77 percent. Is the process used by the Department of Defense sole-source contracting? Is that not more a contributing factor to these percentages than the matter of the set-asides?

Mr. **Camosy**. I wouldn't be able to answer that, what the Department of Defense——

Mr. **Deery**. Mr. Chairman, that is a misconception that continually comes up when we are discussing Federal procurement in general.

In the construction industry, 90 to 95 percent of Federal construction is put out for competitive bid.

Mr. **Mitchell**. I am talking only about the Department of Defense.

Mr. **Deery**. The Department of Defense makes up the bulk of the construction of the Federal Government, and their figures are, I am sure, very close to 90 percent.

Mr. **Mitchell**. What is 90 percent?

Mr. **Deery**. Are not sole-source negotiated but competitively bid.

Mr. **Mitchell**. Well, that certainly is contrary to much of the information that this committee and other committees of the Congress has received. I won't belabor the discussion here, but that is not in agreement with much of the testimony that we have received.

Mr. Molinari.

Mr. **Molinari**. On the same score, Mr. Chairman, I think we have a need to try to verify the accuracy of those figures, because they are mind boggling. Myself, who is a relatively new member of the Small Business Committee, I would be very disturbed if in fact we can find that those figures are accurate. To me, it would prove that there is something wrong with the system, as you are alleging in your testimony.

I have a couple of questions for Mr. Hurley. I will try to be quick if I can, because we never know if we are going to be called for a vote, and we don't want to cause you folks to wait around.

You talked about this training program, the apprentice program.

Mr. **Hurley**. Yes, sir.

Mr. **Molinari**. It sounded interesting to those of us who like to see people who are unskilled trained and take their place in permanent jobs. You have indicated here that the majority of those who completed the apprenticeship program became permanent employees of the company. Could you tell us what the numbers are of those who have joined your company as permanent employees who completed the program?

Mr. HURLEY. They have a relationship between one apprentice per five mechanics in our company. Over the past 10 years, I would say we have trained and have graduated—it is a 4-year apprenticeship—approximately 12 to 15 new mechanics into our business.

The one point I do want to make is the fact that it is a company-sponsored program where they go through a 4-year educational process of work during the day, and schooling at night, anything between welding to mathematical formulas of the boiler industry, meaning different metals, and so forth, and expansion of metals.

Mr. MOLINARI. Is this funded by the company itself?

Mr. HURLEY. Yes, it is fully funded by the company.

Mr. MOLINARI. Fully funded by the company.

Rather than take up the time of the committee, I would be very interested if you could outline in detail how this program was set up, when it started, and the success rate. Do you have any idea what the success rate is?

Mr. HURLEY. The success rate is very good. Since I have been with the company, we have gone through two different apprenticeship programs, counting on 4 years each with approximately four or five members in each program. Each one of them has graduated, and each one of them is still working with J. E. Hurley Co. That has been out of the past. I have been there for 5 years now, and we have just finished one 4-year program. When I first came with the company, they were just ending up the program before this. All those members are still with the company.

Mr. MOLINARI. One other quick question. I was interested in looking at page 2 of your testimony where you talk about that, over the past 6 years, you have done an awful lot of work in repairing local public utility systems that were mandated by EPA.

Mr. HURLEY. Correct.

Mr. MOLINARI. Than above that, you talk about large contracts that you are doing at various military facilities.

Mr. HURLEY. Correct.

Mr. MOLINARI. Was the work at those military facilities, was that also in the category of boiler repair mandated by EPA?

Mr. HURLEY. No, sir. The contracts we have now are rehabilitation jobs of boilers. For one example, the Radford Army Arsenal down in Radford, Va., has, I believe, five or six boilers. We are talking about very large boilers that have not been repaired or worked on for maybe the past two decades. What we are doing is totally stripping down these boilers and rehabilitating them.

Mr. MOLINARI. Obsolescence is what you are talking about.

Mr. HURLEY. Correct. Instead of them going in and tearing down a whole building and building a new boiler plant, you go in, you keep the shell of the boiler and the building, and you just take the insides out and put them back in.

Mr. MOLINARI. How about this work that you are doing that is mandated by EPA?

Mr. HURLEY. The work that was mandated by the Environmental Protection Agency was that work in the public utility system of Pepco. Back in, I guess it was around 1973–1973, they put the law down where they had to clean up the soot that the plants were putting out in the air. That came to building new ductwork, new scrubbers, and other equipment which takes the soot and certain gases out of your exhaust from the boiler plant and either recycles it back into the boiler or puts it into the scrubber, especially the soot, where it is held and hauled out by truck to the dumping sites.

Mr. **Molinari**. I have just one final question for you, Mr. Hurley. I kind of got the impression that the reason you are here is you just find yourself over the old threshold and, seeing an opportunity to raise the threshold which, selfishly, would inure to the benefit of your company, you are seeking to support that concept. Of course, I am just wondering if, running at $10 million, whether you would be here to seek support to a $9 million cap.

Mr. **Hurley**. I wanted to clarify the statement I made earlier.

Mr. **Molinari**. Forgive me, but I couldn't help but ask the question.

Mr. **Hurley**. Yes.

The chairman wanted me to define what is big and what is small. I can speak for my company and my industry, which is the boiler industry. There are companies that are $20 million and $30 million companies that can only compete on public utility work where it is not set-aside small business.

As for my company, we have found over the years doing the work for Pepco boosted us from $1 or $2 million, which I consider my company to be a small business. I don't consider myself a Babcock-Wilcox or a Combustion Engineers, which bring in $20 million or $30 million a year. We brought in over the past 3 years anywhere between $5 million and $7 million.

So to compete with the competition in this immediate area, and to make up for the work that we have lost, like the work we used to do with Pepco, which is now no longer going on because all of that environmental work has been completed—I am here to represent my company to express my views that yes, I think it is time to review everything and to come up with something above the $5 million mark, between $5 million and $9 million.

Mr. **Molinari**. OK.

You will provide us with a more detailed program on that training program?

Mr. **Hurley**. Yes, sir.

Mr. **Molinari**. I would be very interested in that.

[The information referred to above follows:]

H. E. HURLEY, JR.
PRESIDENT

J. E. HURLEY
VICE PRESIDENT

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J.E. Hurley - Local #518 JAC

STANDARDS OF APPRENTICESHIP
FOR
BOILERMAKER IN THE FIELD ERECTION
AND REPAIR INDUSTRY

MANAGEMENT

J. E. Hurley
J.E. Hurley Machine + Boiler Wks. Inc

LABOR

PRES L-518

June 23, 1977
Date Registered

February 23, 1983
Approved by the
District of Columbia Apprenticeship Council

Registration No. 93001

Approved: April 11, 1961
Revised: October 15, 1970
Revised: March 1, 1972
Revised: June 22, 1977
Revised:

Dependable Service Since 1880

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Article A- Definition of a Boilermaker Apprentice

An apprentice shall mean a young person who meets the qualifications as outlined in these standards, who has agreed to work at and learn this trade in accordance with the standards and who is covered by a written agreement, hereinafter called the apprenticeship agreement with the Joint Apprenticeship Committee acting as agent of the Employer and Union or with the Employer with the approval of the Joint Apprenticeship Committee.

Article C- Qualifications of Apprenticeship Applicants

1. Applicants not previously connected with the trade shall be 18 years of age and over, physically fit, and should have completed the 12th grade of high school or its equivalent.

2. Applicants shall submit the following information to the committee along with their application:

(a) Birth certificate or other reliable information of date of birth.

(b) An appropriate record of scholastic and other training.

(c) Evidence of a qualifying grade on an appropriate test that may be prescribed by the committee.

(d) A record of physical examination or other satisfactory evidence of physical fitness.

3. Each applicant will be interviewed by a screening committee composed by labor and management.

4. The actual selection for an entry into apprenticeship will be on the basis of comparative qualifications alone.

Article C- Continued

5. Qualified applicants will be rated numerically on the basis of the following factors:

	Rating System	Maximum Points Allowed
(a)	Attendance and Conduct Record	25
(b)	References	25
(c)	Previous Construction Related Experience	20
(d)	Education	15
(e)	Oral Interview (Interview shall be limited to objective questions that may determine the fitness of applicants for apprenticeship.)	15
	Total Maximum Points Allowed	100
	Qualifying Score	70

6. Selection of qualified applicants shall be in descending order of ranking.

Article E- Term of Apprenticeship

The term of apprenticeship is 4 years, normally 2,000 hours per year, total of 8,000 hours as indicated in the work process. Related instruction 144 hours per year, total of 576 hours as stated in the related instructions.

Article I-Selection of Apprentices

1. The recruitment, selection, employment, and training of apprentices during their apprenticeship shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate this apprenticeship program as required under applicable law and lawful regulations issued thereunder.

When the number of apprentices employed exceeds five, the committee will submit to the D.C. Apprenticeship Council (D.C.A.C.) An affirmative action plan and a selection method based on the requirement as outlined in the D.C. State Plan for Equal Employment Opportunity in Apprenticeship (Section II and III).

Article J-Equal Opportunity Pledge

This Joint Apprenticeship Committee pledges that they will recruit, select, employ, and train apprentices without discrimination because of race, color, religion, national origin, or sex. Such discrimination is prohibited in this program. The committee will take affirmative action to provide equal opportunity in this apprenticeship program, and will operate this program asrequired under title 29 CFR Part 29, Labor Standards for the Registration of Apprenticeship program and the D.C. State plan for equal employment opportunity in apprenticeship and training (Title 29 CFR Part 30, as amended).

Article K-Advancement and Wage of Apprentices

The Joint Apprenticeship Committee shall examine apprentices before each period of advancement to ascertain their satisfactory attendance and progress both at school and on the job and the degree of proficiency and quality of workmanship achieved. It is recommended that during the term of apprenticeship the apprentice receive a progressively increasing schedule of wages based on a percentage of the journeymans wages: $13.21, At no time will the apprentices receive less than the D.C. minimun wage.

Article K

1st 6 months 70% Mech. Rate
2nd 6 months 72.5% Mech Rate
3rd 6 months 75% Mech. Rate
4th 6 months 77.5% Mech. Rate
5th 6 months 80% Mech. Rate
6th 6 months 85% Mech. Rate
7th 6 months 90% Mech. Rate
8th 6 months 95% Mech. Rate

Article L- Ratio of Apprentices to Journeymen

The ratio of apprentices to journeyman shall be one apprentice to the shop and one apprentice for every five (5) journeyman.

Trade Classification and Work Process of Boilermakers

Work in tool room, learning name of tools, use, care and their maintenance; work as rivet heater learning methods of heating, both electrical and forge, work in riveting gang, bucking up on classes of work; work with cutting torch learning fundamentals and methods of operation.

Work on different classes of boilers to learn; cutting out tubes; staybolts; drilling telltale holes; reaming and tapping of staybolt holes; and testing for broken staybolts.

Work on different classes of boilers learning firebox removal, staybolt installation, driving rivets, rolling tubes, testing boilers and tanks, caulking boilers and tanks.

Work on bending of angles and plates; on bending rolls to learn shaping of plates; work on shop machines, learning punching and shearing operations.

Work to learn methods of erecting portable swinging scaffolds, and stock repairs preparing sheets and shapes for welding, stress relieving, and effect of heat on steel or alloys.

Assembling and fitting of plates and shapes in various classes of equipment; work with sketching and simple layouts; work on rigging, learning proper use of slings, chain hoists, and proper arrangements of rope blocks, tying of knots and chains, etc.

All types of welding pertaining to the trade. Work on field erection of structural steel; general boilermaker work previously covered; work from drawings.

From the above description, the following schedule of work processes and approximate number of hours to be spent on each has been prepared. Any variation from this schedule, as well as the sequence in which the experience is received will, of necessity, be governed by work within a shop. It is recommended that apprentices be given every opportunity to spend additional hours in laying out if possible.

WORK PROCESS SCHEDULE

	Approx. Hrs.
Boiler Retube	1200
Boiler Rebuilding	1000
Staybolts	300
Mud leg and Water legs	300
Installation of Package Boilers	200
Installation of Knock-down Boilers	400
Welding Arc	500
Torch Cutting	500
Plate Fabrication	1000
Rolling	500
Layout	500
Assembly	600
Smoke stack and breechings	1000
Total	8000 hours

Mr. MOLINARI. Mr. Camosy, I just have one or two questions of you. How much of your business would consist of Government contract work?

Mr. CAMOSY. At the present time?

Mr. MOLINARI. Yes.

Mr. CAMOSY. I would say maybe 20 or 30 percent, because we are completing just about everything and we are unable to get anything further because of the set-aside program. I am referring primarily now to the Great Lakes naval training area. If I may, I would like to make one point I neglected. I think it was a point that you raised, Mr. Chairman, if you would allow me to.

Mr. MITCHELL. Surely.

Mr. CAMOSY. You commented in one of your remarks that you felt that, from your observation, limited as it is, that there possibly are 10 or 12 contractors who may be dominant in an area. From that, I gathered you had a feeling that that wasn't adequate competition; that is why the limit should possibly be raised.

If I may, I would like to give you the benefit of my experience in that. I have yet to run across a bid where we bid on 10 or 12 contractors in the Chicago-Milwaukee area, and I think that is pretty generally true all over. The number of bidders on these projects are 22, 32, and 40 bidders per project, and the number of contractors available, for instance, in the Chicago area to bid any job, medium or large, is probably closer to 200, not 10 or 12. Now, if you get into a nuclear plant or into the Trident Naval Base or into the base at Diego Garcia, that is a different ball game. That is what distorts the numbers, incidentally.

Mr. MITCHELL. I thank you for your comment. I will review the information that I have at hand.

But in terms of large construction contracts in Atlanta and in Baltimore and in the District of Columbia and in Los Angeles, every year we find the number of people attempting to get those contracts is decreasing, not increasing. That has been my experience.

Mr. CAMOSY. Particularly large contracts.

Mr. MITCHELL. Yes. That was dealing with large contracts, trying to point out that large contractors can really very effectively squeeze out small contractors in the practical day-to-day operations.

Mr. CAMOSY. An interesting point, if I may raise it.

Mr. MITCHELL. This is on Mr. Molinari's time.

Mr. MOLINARI. I only have one more question. It doesn't matter, Mr. Chairman. I would be glad to yield on this side.

Mr. CAMOSY. Let me point this out as an example. At Great Lakes, Ill., on August 8, they took bids on a housing project, a set-aside 100 percent for small business. The project came in at $5,567,000. The three low bidders, gentlemen, were Emerald Maintenance Co. out of Sand Point, Idaho; Alliance Property out of Santa Fe, Calif.; and M&M Services out of Dunn, N.C.

Now you are protecting them. You are giving them special privileged treatment. Here they come from California to Great Lakes, Ill., to bid a $5.5 million job; they are low bidders; they got to provide the bond; they got to have half a million or three-quarters of a million dollars in net quick assets. They are sophisticated enough to know the labor market in Illinois, the availability of subcontractors and services. Hey, they don't need your help any longer.

I can't do that.

Mr. **Mitchell.** Isn't it true that in that set aside, there is competitive bidding?

Mr. **Camosy.** Absolutely.

Mr. **Mitchell.** I guess if you carry it to its ultimacy, the idea of the free enterprise system, you would say those who come in with more sophistication, and so forth, ought to get the contract if they were low bidder.

Mr. **Camosy.** Don't prohibit me, Mr. Chairman, from bidding it.

Mr. **Mitchell.** I am merely trying to look at what the philosophy is behind the AGC, let the free enterprise system work. If you come from Spartanburg, S.C., and you come in with the ability to do the job at a low bid, to deny that, it seems to me, even though it is a set-aside contract, it is a denial of the free enterprise system.

I am not going to pursue this, because it is Mr. Molinari's time, and we could get into a long philosophical debate.

Mr. **Molinari.** I was just interested in one last question. In your testimony, you were talking about as a short-term alternative, urging a project volume limit of not greater than $2 million be placed on the size of construction projects and could be set aside.

I am just wondering if you have any idea as to what percent of Government contracts might fall in that category? It might be a difficult question.

Mr. **Camosy.** It would be difficult for me. I am very, very regional in our Midwest: Chicago, Milwaukee——

Mr. **Molinari.** Let's talk in terms of your region, then, sir.

Mr. **Camosy.** Of the Government contracts that I am aware of $2 million or less, the number per year?

Mr. **Molinari.** Percentage.

Mr. **Camosy.** Percentage? I would say 80 to 90 percent of them are $2 million and under. Very seldom do we get jobs in this area that come above that. When you put a $10 million limit on it, you got 100 percent of all job set-aside. There are no $50 million jobs out there.

Mr. **Molinari.** I must say that your statement is very provocative, and one that we are going to have to look at very carefully to see where we are going in the future.

Mr. **Deery.** Mr. Molinari, the statistics we referred to on our statement, and also the statistics that are relative to your question as to the number of contracts in different categories, we have attempted to get that information from the Federal Procurement Data Center.

Mr. **Molinari.** I have no further questions, Mr. Chairman.

Mr. **Mitchell.** I just want to make the statement that, even though you can provide it, I still think I want our staff to take a look at that. I will have the staff look at it.

Mr. Hurley, I just want to say to you I was sympathetic toward your plight, not just because you have a base of operations in Hyattsville, Md. I am not being parochial.

Gentlemen, thank you very much.

Mr. **Hurley.** Mr. Chairman, if I could make one more statement to Mr. Molinari.

Mr. MITCHELL. Yes.

Mr. HURLEY. I am not only here just for the company as a whole, but the fact is that, throughout a year's time of small business set-aside contracts that come across our business, there must be 200 or 300 contracts that we can't bid on. This takes away, I feel, from us bringing more people into the business and qualifying them as certified mechanics.

This could, I feel, help out the economy and the unemployment, because the work we get and we start getting strained for employees, that is when we find the new ones coming in. That is when we can boost our percentage of apprentices coming in through our program also.

I just wanted to make that statement, the fact that I believe that, if we do have a shot at some of these contracts, we are going to have to look for employment to bring people in. Basically, that is how you find your good mechanics. They come in green, you find out if they want to work—and believe me, a lot of them do—and they stay on. They start from the bottom and work themselves up.

Mr. MITCHELL. Gentlemen, thank you very much.

I thank all of the participants in this. I certainly thank my colleague, Mr. Molinari, for being here.

The hearing is now adjourned.

[Whereupon, at 1:30 p.m., the subcommittee adjourned, to reconvene subject to call of the Chair.]

APPENDIX

B & W Service Industries, Inc.
8711 South Western Avenue
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Statement to the Honorable Parren J. Mitchell, Member of Congress

The Subcommittee on SBA and SBIC Authority,
Minority Enterprise and General Small Business
Problems - Parren J. Mitchell, Chairman

Statement of Roosevelt Walker, President and Chairman of the Board, B&W Service Industries, Incorporated, Los Angeles, California, before the Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems regarding Size Standards Revisions for small business.

I forward this statement to urge this subcommittee to employ the utmost frequency in ratifying the new size standards proposed for small business. This issue has been contemplated since 1980, and by the present time, has plagued the industries in question with chaos and turmoil.

From the point of view of a businessperson, the uncertainties in this area greatly hamper the extent of planning and goal setting that can be accommodated. For example, we do not know whether we should increase our sales forces or decrease marketing efforts. My company is one of those caught up in the crunch.

It is my understanding that at this point, the proposed standards are being debated on only a few remaining SIC categories. At the very least, might you go ahead and ratify the other industries and no longer delay this entire process due to the few that are controversial.

The size standards should be ratified retroactively, to a minimum of two years, as the state of our economy dictates. Small business is suffering because of the lack of action. I urge you to act immediately in the best interest of small business and thereby to the foundation of our system of free enterprise.

Roosevelt H Walker

Roosevelt Walker, President
B & W Service Industries, Inc.

EQUAL OPPORTUNITY M/F EMPLOYER

Testimony before the Congressional Over-sight Committee on Small Business with respect to the Dredging Size Standard proposed by the Small Business Administration ("SBA"). October ___ & ___, 1983.

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Mr. Chairman, my name is George M. Goodloe. I am President of Parkhill-Goodloe Co., Inc., an independently owned small dredging contractor that specializes in maintenance dredging and operates exclusively in the South-Atlantic area. We have been in this business for many years and at present we average employing approximately 120 employees, all of whom are stockholders in the Company. Our total annual operating revenue is derived from competitive bidding. This year approximately 80% of our total income is under the set-aside program with the U. S. Army Corps of Engineers.

I would like to first state on behalf of the Company that we appreciate the opportunity to comment on the Dredging Size Standard as proposed by the Small Business Administration ("SBA"). This matter is very important to us as our equipment (total capital investment of eight million dollars) has been developed over the years specifically to meet the needs of the U. S. Army Corps of Engineers Maintenance Dredging Program. This specialty work is normally bid on a set-aside basis in the South-Atlantic area where we operate.

At the outset, I would like to state that the proposed size standard for dredging is totally unrealistic and discriminatory, and consequently if allowed to stand will defeat the sole purpose of the Small Business Set-Aside Act as a number of small companies will be forced out of existance. When this happens there will be a substantial reduction in set-aside jobs which will result in non-compliance with the law.

It is very clear to me that Big Business is controlling the Size Standard for dredging. This statement is confirmed when you look at the 27 industrial groupings which comprise Division C - Construction and see that the only group not recommended for an increased size standard is the dredging industry. Size standards for all other construction groups have been increased by the Small Business Administration upward by using an inflation factor of 181%. Why was dredging left out in the cold? Could it be that Big Business is calling the plays; I think so, and I know you will agree when you consider all the pertinent facts.

Upon analyzing the facts I just can not understand how the "SBA" or anyone else can expect small dredging companies to continue to absorb inflation year after year. The current standard of $9.5 million was set in 1975 and was based on 1974 cost. Everyone here today knows full well that 1983 dollars do not have the buying power equal to 1974 dollars. However in order to clearly point out what we are dealing with in the real world of competitive bidding I will give you some hard facts.

On government contracts all contractors are required to pay the wage rates listed in the contract (Davis-Bacon Act 40 U.S.C. 27a to a7). An analysis and comparison of the wage scale that was specified in 1974 with the scale now in effect will clearly show that the average hourly rate has doubled and the mandated fringe benefits have tripled. A complete summary is attached for your review.

In order to clearly demonstrate the total dollar cost we are required to pay I have computed the wage and benefit cost for three classifications.

	Leverman		Dump Foreman		Deckhand	
	3-24-74	1-2-83	3-24-74	1-2-83	3-24-74	1-2-83
Hourly Wage	5.38	9.73	4.43	8.48	3.78	7.62
Health & Welfare	.25	.93	.25	.93	.25	.93
Pension	.25	.70	.25	.70	.25	.70
Vacation	.263	.6811	.2215	.5936	.1890	.5534
	$6.1490	$12.0411	$5.1515	$10.7036	$4.4690	$9.7834

	1974/1983 Dollar Increase	1974/1983 % Increase
Leverman	$5.8921	95.38%
Dump Foreman	$5.5521	107.78%
Deckhand	$5.3144	118.92%
	$16.7586	322.53%
Average Cost Increase (÷ 3) =	$5.5862	107.51%

I again, wish to point out that we by contract are required to pay no less than the rates listed in the contract. In other words, we do not have any control over our hourly labor costs.

Everyone here is fully aware of the substantial increase in cost of all petroleum products during the past three years. Skyrocketing diesel oil prices have dramatically increased our operating costs. In 1974 we paid 16½¢ per gallon for #2 diesel and in 1982 we paid up to $1.16½ per gallon, or a cost increase of over 600% per gallon. However this increase per gallon does not account for the total fuel cost increase. Daily fuel consumption has in some cases tripled due to increase pipeline length which requires our dredges to be operated at maximum horsepower and to use one, two, or three boosters which consume approximately 1500 gallons each per day.

In 1974 our fuel cost amounted to eight percent of our direct cost whereas in 1982 it was 20% of direct costs. The longer pipelines referred to, of course, increased our operating costs as our investment in pipe and pontoon tanks almost quadrupled during the 1974/1982 period ($380,000.00 in 1974 to $1,800,000.00 in 1982). Our total investment in dredging equipment as of 1982 increased over 228% over 1974. We built a small dredge tender in 1974 at a cost of $25,000. but in 1982 we purchased a dredge tender of almost identical design at a cost of $68,000. or an increase of 174% over 1974 cost.

The direct cost of environmental requirements is the third most important cost factor (Number One - Labor, Number Two - Fuel Cost) for a dredging contractor operating in the 1980's. Some of the direct costs of environmental requirements are as follows:

Direct cost due to environmental:

1. Pipeline lengths have been increased due to a limited number of environmentally approved disposal areas.
   a. Many areas previously utilized are no longer acceptable for various reasons such as; having been filled to capacity and retired or converted to other usage, being reserved for bird rookeries or other environmental considerations which prohibits the depositing of dredged material within their limits.
   b. Where overboard pumping used to be permitted, we now have to transport material to upland diked disposal areas, sometimes miles from the dredging site (sometimes through over 26,000 feet of pipeline).

   c. The longer lines require more pipe to be purchased and maintained and, at greatly increased operating costs, dredge booster pumps push the material the longer distance.

2. In the State of Florida particularly, the spoil area preparation cost is often 30 to 50 percent of the total project cost and this work is included as a part of the dredging contract even though the dredging contractor would nornally subcontract this work to others. This work should be under a separate contract. During the period 1967 thru 1974 our subcontracting cost averaged about $400,000 per year whereas during the period 1975 thru 1982 our subcontracting cost averaged $900,000 per year or an increase of 125 percent over the 1967/1974 period. However these figures cover only a part of the dike construction and maintenance cost. The balance is included in our daily operating cost (labor, bulldozers, draglines, etc.).
3. Turbidity controls such as silt barriers have greatly increased dredging cost. Also the cost of monitoring by outside laboratories h s been added to the cost of the project.
4. In some instances, the dredge waste water is required to be piped and pumped back to the dredging area. This adds to the project the cost of the pipeline and a pumping operation equivalent in capacity to the dredge volume.
5. The above operations also add more men to the crews used on the project to maintain the silt barriers, dikes, and pipelines, to perform the monitoring, and to operate the dredge

water return pumps.

6. On some navigation maintenance dredging jobs the contractor is required to place all suitable material on the beach in order to renourish the beaches for public use and enjoyment. This requirement means longer pipelines and in some cases dual lines - one to the beach and one to the spoil area. Due to the congestion on the beaches and changing pumping lines we incur lost time which reduces production and increases our daily operating cost.

Many of the contracts we and our competitors perform involve re-dredging of channels that continuously shoal up. The following are examples of how these reoccurring projects have changed since pre 1975: These changes have been dictated by environmental considerations.

The Saturn Barge Channel at Cape Canaveral. Now all dredged material is placed in diked disposal areas in lieu of Open Water disposal. Dike cost included in a 1978 contract for maintenance dredging was $260,000. On previous contracts pipeline lengths did not exceed 3,000 feet. In this case the remote disposal areas with resulting long pumping distances made booster pumps necessary. A change order to preserve marine grasses required pumping 25,000 feet with 2 boosters at a cost increase of $168,000.

The St. Johns River at Jacksonville Harbor, Florida. Our home base has to have some shoals removed on a biannual basis. Pipeline lengths have increased since 1974 from averages of 3,000 to 5,000 feet and maximums of 7,000 to 10,000 feet to averages of 9,000 to 10,000 feet and maximums of 20,000 to 25,000 feet. In addition, waste water from the dredge material disposal area at Back River shoal had to be returned by pipeline more than

5,000 feet, Several thousand feet of this pipeline was required to be on floats at great expense in order to minimize interference with manatees that frequent the shallow creek.

Florida Intracoastal Waterway. Under a current contract all material is placed in diked areas and the maximum pipeline is 26,000 feet with the average at 13,000 feet. Pre 1975 pipeline lengths ranged generally from 2,000 to 4,000 feet.

Handling of pipelines to pump these long distances is very costly. The lines have to be mobilized to the site, then assembled, and placed along the initial pipeline route. These lines then must be relocated to other shoal areas on a project. This is a time consuming and risky operation requiring a lot of manpower and equipment and many times the dredge is shut down during the time required to relocate pipeline and the dredge. Initial laying and subsequent relocation of these pipelines are hampered by adverse weather, tides, swift currents and vessel traffic.

At Mayport Naval Base, Jacksonville, Florida, cost of dike construction is high and all of the waste water discharged from the disposal area must be pumped back thru 6,000 to 8,000 feet of pipeline to the basin being dredged. In pre 1974 days this clarified water which was free of settled solids was discharged by gravity into the natural creek bottoms adjacent to the disposal area.

The fourth most important cost factor is the cost of money. I have mentioned our total dollar investment in equipment compared to 1974 and in order to truly appreciate the magnitude of what we are dealing with you must look at interest rates. A quick review reveals the following.

Year	Prime Interest Rate
1958	3 1/2%
1970	6 3/4%
1971	5 1/4%
1974	8 3/4%
1981	10 1/2%
1982	17%

As you know, an independently owned small company does not enjoy the luxury of being able to sell stock or convertible bonds to raise capital. Our operation must generate the necessary cash or we have to go to our bank and arrange financing. Additionally, due to our size we have to pay one to two percent over prime for our money. Big Business, due to their size usually pays 1/2 to 1 percent under prime for their additional cash needs.

In conclusion, our industry has been affected by inflation to a greater extent than other industries because it is a fuel intensive industry and because of environmental considerations. I, therefore, urge that the size standard for the dredging industry be increased to $21.5 million.

Thank you for your attention.

	Effective 03-24-74 Per S/T Hr.	Effective 01-02-83 Per S/T Hr.	$ Increase Per Hour	% Increase Per Hour
Leverman	5.38	9.73	4.35	80.86
1st Engineer	5.04	9.45	4.41	87.50
2nd Engineer	4.90	9.29	4.39	89.60
3rd Engineer	4.75	9.10	4.35	92.21
1st Mate	4.65	8.72	4.07	87.53
Mate	4.43	8.48	4.05	91.43
Dump Foreman	4.43	8.48	4.05	91.43
Boatman	4.14	8.09	3.95	95.41
Deckhand	3.78	7.62	3.84	101.59
Welder	5.15	9.43	4.28	83.11
Dragline Operator	5.02	8.82	3.80	75.70
Oiler	4.08	8.01	3.93	96.33
Total/Average	$55.75	$105.22	$49.47	88.74
Fringe Benefits	Per Hour	Per Hour		
Health & Welfare	.25	.93	.68	272.00
Pension	.25	.70	.45	180.00
Vacation	5% S/T	7%		40% Base Percentage

Joseph O'Neil *Executive Secretary*
1725 K Street, N.W., Washington, D.C. 20006
(202) 887-5872

American Council of Independent Laboratories, Inc.
1725 K Street N.W., Washington, DC 20006

TESTIMONY OF
THE AMERICAN COUNCIL OF INDEPENDENT LABORATORIES
IN CONNECTION WITH OCT. 26, 1983 HEARINGS
SUBCOMMITTEE ON SBA AND SBIC AUTHORITY, MINORITY ENTERPRISE AND GENERAL SMALL BUSINESS PROBLEMS, OF THE HOUSE SMALL BUSINESS COMMITTEE
ON SBA'S PROPOSED RULE ON SIZE STANDARDS

SUBMITTED TO THE HONORABLE JOSEPH M. MCDADE
RANKING MINORITY MEMBER
OF THE HOUSE SMALL BUSINESS COMMITTEE

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Boulder, CO

Eastern Division Representative
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Arnold Greene Testing Laboratories, Inc.
Natick, MA

Executive Secretary
Joseph O'Neil
ACIL Office
Washington, D.C.

This testimony is sumbitted by Joseph O'Neil, Executive Secretary of the American Council of Independent Laboratories (ACIL), in behalf of ACIL's 270 member companies. ACIL is the association of independent, commercial, research, analytical and testing laboratories. These laboratories provide their independent, objective, engineering and scientific services to clients in the commercial, industrial, professional and governmental sectors.

The latest proposal from the Small Business Administration regarding revision of SBA's Size Standards for Small Businesses was published in the Federal Register on May 6, 1983 (pp. 20560 ff.). In that proposed rule, two standards are set forth for independent laboratories: for Research and Development Laboratories (SIC Category 7391), the proposed standard is 500 employees; for Commercial Testing Laboratories (SIC Category 7397), the proposed standard is annual revenues of $3.5 million.

In brief, ACIL's position is that the standard should be the same for both R&D laboratories and commercial testing laboratories - and the standard should be 500 employees. ACIL urges that 500 employees be the standard for SIC Categories 7391 and 7397, until such time as subclassifications, as proposed by the 1980 White House Conference on Small Business, can be developed.

The following comments elaborate on ACIL's position that Commercial Laboratories and R&D Laboratories should both be governed by a size standard of 500 employees.

1. In the proposed rule, the current size standard for Commercial Laboratories in SIC Category 7397 is shown as $2 million in annual receipts. This statement is in error. The current size standard for SIC Category 7397 is 500 employees. We refer to 13 C.F.R. Part 121.3-8(d)(2) which defines a small business for government procurement purposes as follows:

> Research, development, and testing. Any concern bidding on a contract for research, development, and/or testing is classified; (2) As small if it is bidding on a contract for research and/or development which does not require delivery of a manufactured product or on a contract for testing and its number of employees does not exceed 500 persons.

Virtually all government agency officials use the criteria of 500 employees for procurement purposes, and have done so for many years. See, for example, GSA Contract Solicitation RFP-GS-11C-30148 for asbestos testing, dated May 23, 1983 (Attachment C). Also note EPA Solicitation CI 83-0863 for Toxicological Testing of Water, dated June 6, 1983 (Attachment D). Both the GSA and EPA considered 500 employees the proper measurement for classification as a small business.

2. There are no material differences in the size, organization, management, methods of operation, and market orientation between Research and Development Laboratories and Commercial Testing Laboratories. As a matter of fact, many laboratories within either classification perform services within the other classification. Some laboratories consistently perform both R&D and commercial testing, and often the distinction is not clear. Sometimes a laboratory with this situation will classify itself as SIC 7391 and sometimes and SIC 7397. By setting different size standards for each of these classifications, you will be creating a great deal of unnecessary and damaging confusion within the laboratory community and with government procurement personnel as well as others in government responsible for small business programs.

3. As contrasted to many of the other business services within SIC Major Group 73, Research and Development Laboratories and Commercial Testing Laboratories find that they are competing not only within their own group, but also with many colleges and universities, large non-profit and not-for-profit laboratories, and the laboratories of manufacturers and utilities who are serving the same markets. Some examples are: Underwriters Laboratories, Battelle Memorial Institute, Franklin Institute, Stanford University, and Cornell University, as well as Coors, Public Service Electric and Gas Corporation (New Jersey), Alcoa, Rockwell, and Sunoco. We see no evidence that these organizations were considered in establishing a size standard for Commercial Testing Laboratories.

4. The proposed size definition standard for SIC Category 7397 based on dollar receipts is flawed in another fundamental respect. Much of the equipment used in testing is very expensive and sophisticated. There are many occasions where a laboratory, in invoicing a client, will charge for a portion, or all, of the special equipment acquired to conduct the test protocol. This figure when used in total receipts provides a "false" picture of the laboratory's revenues and income.

ACIL is distressed that SBA, in its proposed rule, has created a dichotomy between R&D and Commercial Testing Laboratories. We urge that these types of organizations, identical or similar in character, be treated the same. In each case, the appropriate standard is employee-based, not revenue-based, and the number of employees should be 500.

x x x

IDENTIFIED DREDGING COMMENTS

NAME	DATE OF COMMENT	RECOMMENDED SIZE
American Diversified Dredging, Inc.	6/29/1983	$17.2 million
American Dredging Company	7/29/1982	Lower Standard
Arkansas Valley Dredging Co., Inc.	7/8/1983	$17.2 million
Atkinson Dredging Company	6/24/1983	$17.2 million
Barnegat Bay Dredging Co.	7/1/1983	Lower Standard
C.F. Bean Corporation	7/17/1983	$5 million
California Dredging Company	6/29/1983	$5 million
The Canonie Companies, Inc.	3/31/1980	Lower Standard
J.M. Cashman, Inc.	7/22/1983	Lower Standard
Cobo Services Incorporated	8/5/1983	$5 million
Colonna's Shipyard, Inc.	6/29/1983	$2-3 million
Continental Dredging, Inc.	6/29/1983	$5-6 million
Cottrell Engineering Corporation	6/13/1983	$18-21&1/2 million
Durocher Dock & Dredge, Inc.	6/14/1983	$5 million
Falcon Marine Company	6/5/1980	Lower Standard
Florida Dredge & Dock Inc.	7/20/1982	$3 million
Gravois-La. Dredging Company, Inc.	6/28/1983	Lower Standard
Great Lakes Dredge & Dock Company	7/23/1982	$9.5 million
HBH, Inc.	6/29/1983	$5 million
J. Henry Holland Corporation	6/29/1983	$5 million
T.L. James & Company, Inc.	7/12/1983	$5 million
Lakeshore Contractors, Inc.	5/29/1980	Lower Standard
J.A. LaPorte, Inc.	7/18/1983	$9.5 million
Latex Construction Company	7/21/1982	$9.5 million
Maritime Trades Department	6/28/1983	$4-5 million
Merritt Dredging Company	6/24/1983	$17.2 million

NAME	DATE OF COMMENT	RECOMMENDED SIZE
.cMullen & Pitz Construction Company	5/20/1980	Lower Standard
ehalem River Dredging	5/22/1980	Lower Standard
d Nemer Construction Company, Inc.	7/1/1983	Lower Standard
ewport Dredging Company	7/1/1983	$2-5 million
.orfolk Dredging Company	6/27/1983	$2 million
& M Dredging Corporation	6/24/1983	$3 million
'almberg Construction Company	6/18/1983	$3 million
'arkhill-Goodloe Company, Inc.	6/22/1983	$17.2 million
'atton, Boggs & Blow	6/30/1983	$4-5 million
'illsbury Dredging Company, Inc.	6/17/1983	Lower Standard
.oyd W. Richardson Construction Corp.	6/29/1983	$21.5 million
Robertson Sand and Gravel	7/27/1982	$3-4 million
Rose Marine, Inc.	7/12/1983	$21.5 million
Saba Dredging Company, Inc.	6/29/1983	$5 million
Salmons Dredging Corporation	6/27/1983	$17.2 million
Sandau Dredging	5/29/1980	Lower Standard
John D. Simpson Construction Company, Inc.	6/3/1980	Lower Standard
Walter Larke Sorg Associates	6/29/1983	$17.2 million
Southeastern Dredge Owners Association	7/7/1983	$21.5 million
Southern Dredging Company, Inc.	6/22/1983	$17.2 million
Supermarine	5/25/1983	$3 million
Tassin's	7/6/1983	$3-4 million
Western Contracting Corporation	7/21/1982	
Western-Pacific Dredging Co.	8/2/1982	$3 million
Williams-McWilliams Company, Inc.	6/23/1983	$3-5 million
Wroten Dredging Company	6/29/83	Raise Standard

34 Reducing

13 Raising

3 Maintaining

53 Total

AMERICAN DIVERSIFIED DREDGING, INC.
DREDGING CONTRACTORS

305 CATAMARAN COURT
P.O. BOX 1214
NEW PORT RICHEY, FL 33552
(813) 845-0383

1060 E. W. MAPLE RD.
P.O. BOX 404
WALLED LAKE, MI 48088
(313) 624-2467

June 29, 1983

Mr. Andrew A. Canellas
Director, Office of Industry Analysis
Small Business Administration
1441 L Street, Northwest, Room 500
Washington, DC 20416

RE: Proposed Rule
Small Business Size
Standards

Dear Mr. Canellas:

I am writing to comment on the proposed rule covering Small Business Size Standards as published in the May 6, 1983 Federal Register, Volume 48, Number 89 and in particular to the Standard for the Dredging Industry, also the Construction Industry as a group. I request that this letter be made a part of the official record.

The SBA has proposed that the Standard for Dredging remain at the same level as set in 1975, namely $9.5 million. I do not understand this proposed standard, particularly after reading the section titled, "Methodology for Setting Size Standards". In this section, the SBA states and I quote:

> "The technique for adjusting for inflation focuses on a single measure - the GNP deflator. This measure is used in the National Income Account to calculate GNP adjusted for inflation (real GNP). This measure is more sophisticated than other measures of inflation in both method and coverage. It includes the price of all goods and services in the economy whether paid by consumers, businesses, or the public sector. Thus, it is the most comprehensive price index since it includes all sectors of the economy.
>
> "The appropriate adjustment period will vary from industry to industry depending on the year of its last adjustment for inflation. In the majority of nonmanufacturing industries the last adjustment occurred in 1975 based on 1974 data. Thus the deflator for 1974 of 115 (1972=100) is compared with the estimated deflator of 208 for the third quarter of 1982. The total change of +81 percent is then applied to those size standards last adjusted in 1975 to calculate the proposed revisions. In instances

> where size standards have been set after 1974, the adjustments are commensurately less to reflect the shorter period in which inflation occurred."

The standard for dredging as you can plainly see has not been given the benefit of an adjustment for inflation. In the event the size standard for dredging remains at the 1975 standard of $9.5 million which was based on 1974 cost we are faced with a sizable reduction as far as the purchasing power of real 1983 dollars are concerned. The 1975 Size Standards have been under review since 1979, therefore, if you apply the same time table to a new standard adopted this year the next change will take place sometime during 1987/1991. In the event the next change takes place as outlined above, 1975 dollars will have to absorb up to 16 years of inflation. No business can absorb 16 years of inflation. This means that we, as well as our small business competition, will be forced out of business. Our equipment is almost exclusively suitable for performing the type and scope of dredging projects being set aside and is not competitive on most other projects requiring the large multi-million dollar dredges owned by big businesses.

In addition to the inflation factor, the direct cost of environmental regulation must be taken into consideration. During the 8 year period (1975/1983) diking cost and pipe line length (60% environment cost) have more than doubled the cost on some jobs (1975 cost vs. 1983 cost). The net effect of just these two items has increased our cost over 100% while the size standard has remained constant. Something is very wrong within the system if this logic stands.

We also note from the Federal Register under "Summary of Results", and I quote:

> "The size standards in construction, retail, and services are presently stated in gross receipts. Under the new approach the size standard for both the procurement and financial programs will be based on the present procurement size standard increased for inflation unless problems are known to exist. In the majority of industries in which a number of comments have been received pursuant to the Advance Notices, inflation adjustment will accomodate the views of the commentors including the procuring agencies. However, in a few industries, specific problems are not resolved through the inflationary adjustment."

I feel that the specific problem regarding the size standard for dredging referred to above centers around the very strong efforts of large dredging companies to reduce the size standards for dredging from $9.5 million dollars to less than $5. million dollars. They have engaged lawyers and lobbyists at considerable cost to simply put us out of business. Big business has the resources to buy all of us when we are placed in a position where we can not compete. Small business, because they are small, do not enjoy this same luxury. The question we have is why should the wolf control the financial keys to the hen house? A lower standard ($9.5 million not adjusted for inflation) plainly puts big business concerns in this position. This is detrimental to business in general and to the government and all taxpayers.

After reading the entire section on Proposed Small Business Size Standards in the Federal Register (May 6, 1983, Part II) and all other factual data available to me, I am compelled to respectfully demand that the SBA reconsider their discriminatory action against small dredging concerns as published in the proposed rules. I strongly feel that our standard should be increased by no less than the percentage (81%) increase other Division C construction concerns received ($12.0 million to $21.5 million = 81%). I therefore strongly support a Standard for Dredging in the amount of no less than $17.2 million ($9.5 million x 1.81% = $17.2 million).

I am very concerned that this problem be given serious consideration since this could very much limit our ability to stay in business.

Sincerely,

Sylvia S. Baize

Sylvia S. Baize
President

AMERICAN DIVERSIFIED DREDGING, INC.

SSB/ms

AMERICAN DREDGING COMPANY
INCORPORATED 1867

DELAWARE AVE. & STATE ST
P O BOX 190
CAMDEN, NJ 08101

Telephone (609) 963-0963

A. D. PISTILLI, Ph. D., P.E.
PRESIDENT

July 29, 1982

Mr. Andrew A. Canellas
Director of Industry Analysis
Small Business Administration
1441 L. Street, N. W.
Suite 500
Washington, D. C. 20416

Reference: Small Business Size Standards

Dear Mr. Canellas:

The purpose for this letter is to comment on the SBA's proposed size standards reflected in the May 3, 1982 Federal Register. I would like to begin by strongly commending the Administration, the SBA, and your office for redirecting the SBA's emphasis and programs on the smaller firms of each industry. American Dredging Company is not a small business, however, this does not mean that we do not strongly support small businesses. We make a serious effort in our subcontracting to focus on smaller firms that need the work.

I should state, however, that the size standard that has been in existence for dredging for several years ($9.5 Million) has done little to benefit the many small dredging firms that exist throughout the country; in this area, for example, small firms such as Barneget Bay Dredging, and Spickard Enterprises, which do not gross more than $3 Million annually, are forced within the set-aside program to compete with much larger firms that have no business in the program. The obvious result is that these firms have great difficulties in growing. Although the SBA officials must investigate these matters independently, I have every confidence once you undertake this investigation, you will confirm the need to lower the $9.5 Million proposal substantially, and thereby refocus on smaller firms. I believe you will find many firms throughout the country below the $4-5 Million gross receipts size that will benefit greatly if SBA's size standard is established in this range.

American Dredging Company appreciates this opportunity to submit its views to the SBA which we hope will be helpful in your proceedings. Thank you.

Very truly yours,

AMERICAN DREDGING COMPANY

A. D. Pistilli

ADP/mjs

Ark. Valley Dredging Co., Inc.
TELEPHONE (501)778-1500
P.O. BOX 548 609 MILITARY
BENTON, ARKANSAS 72015

July 8, 1983

The Honorable James C. Sanders
Administrator, Small Business Administration
1441 "L" Street, N.W.
Washington, D.C. 20416

Dear Sir:

We only recently became aware of proposed rule changes appearing in the Federal Register of May 6, 1983 pertaining to amendment of the SBA size standards regulations. We also note that comments were to be submitted on or before July 5, 1983; however, we understand the period for submitting comments has been extended to July 15, 1983.

A review of the proposed regulations reveals two statements on page 20561, two on page 20562, and one on page 20565, which are totally inconsistant with the recommended action respecting the dredging industry. For ready reference, these statements are quoted:

> (20561) - "Firms have been losing SBA eligibility due to inflation, and an inflation adjustment will help to remedy this."
>
> (20561) - "Many of these commentors felt, however, that the size standards based on gross receipts should be reviewed for inflation to maintain real measures of size unaffected by price trends."
>
> (20562) - "A similar approach applies to the nonmanufacturing industries. In these, however, an inflationary adjustment is made in an attempt to put the size standards on a real dollar equivalent to the time of the last general adjustment, usually 1975."
>
> (20562) - "The technique for adjusting for inflation focuses on a single measure - the GNP deflator. * * *. The total change of 81 percent is then applied to those size standards last adjusted in 1975 to calculate the proposed revisions."
>
> (20565) - * * *, those size standards presently expressed in dollars, basically those for the nonmanufacturing industries, are proposed to be increased for inflation." (Underscoring added).

Up to page 20569 of the proposed regulations, everything appears to be hunky-dory, but what a surprise awaits the small business dredging industry there. Under Division C - Construction, there is shown a total of ten categories of construction contractors, the first nine being general consturction and the tenth being "Dredging and Surface Cleaning Activities ." On the first nine, the current standard for procurement is shown to be $12 million with a proposed increase of 81 percent to $21.5 million. However, on dredging the current standard is shown to be $9.5 million and the proposed standard to be $9.5 million--NO INCREASE AT ALL!!!! This is indeed strange and I would appreciate your explanation, if there is one.

Are you not aware that the cost of fuel (probably the greatest cost factor in the dredging industry) has doubled or tripled in the last eight years? Are you not aware of the extraordinary increase in the cost of dredging capital plant and equipment over the last eight years? Are you not aware of the substantial increases in wages over the last eight years? Why are small dredgers treated as a step-child in the construction industry?

A small business dredge doing $5.5 million business in 1975 and the same volume today would no longer be small business, using the 81 percent GNP deflator and the current and proposed size standard. If the proposed rules are adopted I suspect that a number of us would be classified as large business and no longer able to compete under the small business program. I am sure we will find it difficult, if not impossible, to compete with the large dredgers with their greater resources and I am equally sure that the cost to the Government for dredging will increase because of decreased competition. I submit that the small dredgers have made an important contribution to the well-being of this nation and that we will continue to do so if we are treated fairly and equitably.

We respectfully request that the proposed size standard for the dredging industry not be adopted and that a higher standard of $17.2 million ($9.5 times 81%) be authorized.

Yours truly,

ARKANSAS VALLEY DREDGING CO., INC.

By: Ike Carter Jr.
IKE CARTER, JR.
President

cc: Senator Dale Bumpers, U. S. Senate, Washington, D.C. 20510
Senator David Pryor, U. S. Senate, Washington, D.C. 20510
Congressman John Paul Hammerschmidt, House of Representatives, 2207 Rayburn Blvd., Washington, D.C. 20515
Congressman Bill Alexander, 1330 Longworth, Washington, D.C. 20515
Congressman Ed Bethune, 1330 Longworth, Washington, D.C. 20515
Congressman Burl Anthony, 1330 Longworth, Washington, D.C. 20515
Mr. Andrew A. Canellas, Director, Office of Industry Analysis, Small Business Administration, 1441 "L" Street, N.W., Room 500, Washington, DC 204

CHANNEL AND FILL DREDGING
RIVER AND HARBOR IMPROVEMENTS

OFFICE, YARD AND SHOPS AT
GREAT BRIDGE IN CHESAPEAKE
(804) 482-2141

ATKINSON DREDGING COMPANY
INCORPORATED 1926
CONTRACTING ENGINEERS
2615 BASIN ROAD - P.O. BOX 15284
CHESAPEAKE, VA. - 23320

June 24, 1983

Honorable James C. Sanders
Administrator, U.S. Small Business Administration
1441 "L" Street, N. W.
Washington, D. C. 20416

Re: Dredging Industry,
Proposed Size Standard

Dear Mr. Sanders:

We submit this letter of concern over the Proposed Rule published May 6, 1983 in the Federal Register with regard to a size standard of $9.5m for the Small Business Dredging Industry.

As a small business dredging company, we object to the standard as $9.5m and we request that the standard be raised to no less than the +81% or $17.2m, allowing for an increase commensurate with inflationary factors since 1975. We desire, also, to point out that dredging contracts contain considerable cost factors related to environmental items; these items, consisting of dike construction, culvert pipe, weirs, curtains and laboratory expenses, may total 20% to 30% of a given contract cost. For our company (and we expect for the small business dredging industry, as well), our dollar revenues have increased disporportionately to the dredging volume.

In resources of management, equipment and area of work, we are small and we make no claim to be able to compete with large business concerns which are national and even international in scope with resources in many cases extending beyond the dredging industry.

Our contributions to the small business program are positive over time; we believe that this company and other small business companies can continue these efforts with the help of the Small Business Administration.

We request, therefore, that the Proposed Rule for the dredging industry not be adopted and that a higher standard of at least $17.2m be authorized. Please consider our other letters regarding this important issue and we enclose copies for your review.

Should additional information be required, we will promptly respond. Meanwhile, kindly keep us informed on the status of this important issue.

Very truly yours,
ATKINSON DREDGING COMPANY

William S. Hull
William S. Hull, President

6/27
ack 6/28

WSH/mw
Enclosures

BARNEGAT BAY DREDGING CO.
INCORPORATED

BOX 336, HARVEY CEDARS, N.J. 08008 ● (609) 494-5913

1 July,1983

Andrew A. Canellas
Director Size Standard Staff,Small Business Administration
1441 L Street N.W.
Washington DC 20416

Re: Small Business Standards for Dredging SIC 1629

Dear Mr. Canellas:

During the past three and a half years I have written to the SBA, to members of congress and various other officals within the Corp of Engineers and federal government relating to small business size standards of $9.5 million annual receipt that has applied in the dredging industry since 1975.In addition,I testified at a regional SBA hearing in Philadelphia in 1980, as well as before house SBA committee. I trust that you have copies of all my prior correspondence and testimony on this matter.

I am President of Barnegat Bay Dredging, a small business dredging firm with which I have worked over thirty years.Barnegat Bay Dredging grosses two million annually.We perform work regularly for the Corp of Engineers and various other state and local government.As we have stated on repeated occassions in the past, it is our position, and the posisiton of many other small dredging firms similarly situated, that the $9.5 million size standard for dredging does nothing for small business dredging firms,such as ours,because it is much to high.

I note with considerable frustration that the SBA proposes to implement the $9.5 million size standard for dredging, as reflected in the FEDERAL REGISTRER May 6,1983. This is frustrating for two reasons. First,it shows the SBA has not listened to the many small dredgers that have commented on this matter, in the past several years. Second,the May 6 FEDERAL REGISTER revealed the very discouraging fact that the SBA is more concerned with assisting "larger and sophisticated " firms, apparently because the Corp of Engineers prefers to have sophisticated firms eligible for set-aside contracts. Through out the last several years, I have said that the size standard does exactly that- helps the medium size, more developed firms. Rather than now correct its past error the SBA has chosen to openly ignore truly small business's.

I understand that this is the last time that the SBA will be receiving letters from the public before finalizing the dredge size standard. I strongly believe that the SBA must not forget that it is supposed to help small firms,and not just the Corp of Engineers or the medium size firms that have profited so much by the high size standard.

BARNEGAT BAY DREDGING CO.
INCORPORATED

BOX 336, HARVEY CEDARS, N.J. 08008 ● (609) 494-5913

Page 2

Andrew A. Canellas
Director Suze Standard SBA

I urge you to take advantage of this last opportunity to give small dredgers the chance to compete among themselves for set-aside procurements by reducing the size standard to four or five million.

Thank you very much,

Sincerely,

Arnold D. Hill,
President

cc: Congressman William Hughes
Congressman Frank Lautenberg
Senator William Bradley

C.F. Bean
Corporation

One Shell Square, Suite 3700
New Orleans, Louisiana 70139
Telephone: 504-581-1583
Telex: 58-4270
ITT: 460037 Bean UI
Cable: Seabean

BEAN

June 17, 1983

Mr. Andrew Canellas, Chief
Size Standards Division
Small Business Administration
1441 L Street, N.W.
Washington, DC 20416

Dear Mr. Canellas:

The purpose of this letter is to present our comments and recommendations on the small business size standards for dredging firms proposed by the Small Business Administration (SBA) on May 6, 1983. Although our firm is not a small business, we compete for dredging contracts nationwide and are convinced that the proposed size standard of $9.5 million does not address the substantive issue in this matter; namely, the adverse effect on the truly small dredging firms resulting from a size standard at the proposed level.

As we have indicated in previous correspondence, the "truly" small business dredging firms are those with annual sales in the $1 - $3 million range. Since the majority of all dredging firms in the United States have gross annual receipts less than $5 million, the present program tends to create a self-perpetuating market for those firms with annual sales greater than $5 million but less than $9.5 million. In effect, these become "large" small businesses to the detriment of the small dredging firm. We believe that this is not only contrary to the intent of the Act, but by not focusing on firms under $5.0 million, the "larger" business firms operate in a protected and subsidized market.

Further, it is difficult to understand the basis for the SBA's defense of their position. By admitting that the proposed standards are not intended to foster the development of the truly small firm; but rather to protect firms already possessing "sophistication in the procurement process," it is clear that the SBA has abdicated its mandate under the Small Business Act. Such an attitude will allow those dredging firms in the Southeastern part of the United States that have sales greater than $5 million but less than $9.5 million to continue to dominate their geographical market to the disadvantage of the truly small firms. As we have indicated in the past (and substantiated by actual bid situations), that situation has threatened the financial integrity of many of the smaller firms even to the point of survival.

We feel that it is time for the SBA to recognize the inherent inequities of the $9.5 million size standard as well as its proposed implementing procedures. The "large" small dredging firms will have no incentive to "graduate" from their protected market; smaller firms (less than $5 million annual sales) will find themselves more and more unable to compete; and the taxpayer will continue to subsidize a protected market. We therefore strongly recommend that the size standard be set at $5.0 million. This standard will reflect the reality of the market place and be more in compliance with the intent of the Act which is to improve the competitiveness of the truly small company.

I appreciate the opportunity to submit this comment; and if I can provide additional information, do not hesitate to call.

Very truly yours,

E P Tanzberger

E. P. Tanzberger

EPT/kc

california dredging company

1725 Marina Vista, Martinez, CA 94553
Telephone (415) 229-4800

June 29, 1983

RECEIVED
~~Jun~~ Jul 5 3 40 PM '83
OFFICE OF THE
ADMINISTRATOR

Honorable James C. Sanders
Administrator
Small Business Administration
1441 L Street, N. W.
Washington, D C 20416

Dear Mr. Sanders:

I am a small dredging contractor who does $2 - $3 million annually and I am struggling for survival. I wish I were competing in a free market but how does one compete with a firm that: changes corporate shells as easily as you and I change clothes, has and uses connections in Washington DC to get $5 million of federal work last year without bid, has 100 employees compared to my 10, has dominated and controlled the local industry for years, and still bids on government small business set aside work!!

I come to you as a lone survivor of a group I represented three years ago. I am not asking for a $5 million handout or gift like my competitor received. I am only asking that you remove him, and others like him from the category of "Small Business."

If you don't limit the standards to $5 million, you are perpetuating a system where dredging businesses are not growing and building fleets, but rather stagnating at a level just under the size limit in order to be helped forever by the SBA program. That mentality does not "expand the mobilization base."

The Corps of Engineers objectives are not the same as mine. I want to make money by competing against firms my size but the Corps simply wants their jobs done with as little conflict as possible. I have been personally berated by the Corps of Engineers for not being "sophisticated in the procurement process." I feel that they would rather deal with a much larger firm just to make their job easier.

The Corps is deceiving you by telling you that maintaining a high size standard will increase competition. It may increase competition in the short run, but in the long run all the truly small firms will be forced out of business by larger firms. True the SBA program restricts competition, but that is its purpose. I don't think too many SBA set aside jobs have gone without at least two bidders. Indeed, the contracting officer can unrestrict a project or rebid a job if there is insufficient response under the set aside program.

Your proposal to retain the $9.5 million standard does not go far enough to really help me because that has been too high in the past, as explained in my attached testimony of May 20, 1980. "PLEASE KEEP US ALIVE WITH A STANDARD OF FIVE."

Sincerely,

Olin C. Jones
President

OCJ/raw

Encl.

CANONIE

The Canonie
Companies, Inc.

P.O. Box 509, U.S. 31 and M43,
South Haven, Michigan 49090
Phone 616-637-5236

REC'D
APR 3 10 14 AM '80
OFFICE OF THE
ADMINISTRATOR

March 31, 1980

Small Business Administration
1441 L Street
20416 Washington D.C. 20416

Attn: Mr. A. Vernon Weaver
Administrator

Dear Mr. Weaver,

I understand the Small Business Administration is accepting industry comments on the redefinition of size standards until May 9, 1980. I am particularly interested in the dredging construction field. From the article I read, I understand that a dredging contractor would be small if he has 1,000 or fewer employees. As you probably know, that would put most of the dredging contractors under the S.B.A guidelines. I feel there is a definite need for a change in the size standard for dredging contractors since the current economic limits are quite high in relationship to the usual size of dredging projects.

I would appreciate receiving a copy of the proposed standard published in the FEDERAL REGISTER March 10, 1980. If there is an individual in your office who I may contact directly concerning the dredging contractors size revision, I would appreciate knowing who that individual would be. Thank you in advance for your cooperation, I remain,

Yours very truly,

THE CANONIE COMPANIES, INC.

E. Major Schutt, Vice President
Legal Affairs

sj

J. M. Cashman, Inc. Marine and General Contractor

July 22, 1983

Mr. Andrew A. Canellas
Director, Size Standards Staff
Small Business Administration
1441 L. Street, N.W.
Washington, D.C. 20416

Dear Mr. Canellas:

It has recently come to our attention that some of the middle-sized contractors are lobbying to have the size standard for SBA assistance and set-aside bidding status increased from $9.5 million per year average over a three year period to $21 million.

We feel that in today's economy, it is getting increasingly more difficult to compete with large businesses and to increase the size standard would eventually eliminate many small contractors. In fact, consideration to lower the size standard from $9.5 million to a lower figure might be more in line with the spirit of the set-aside program. This, in effect, would not only help the small businesses, but would also help to maintain a healthy competitive environment.

We presently urge you to seriously consider our views and would appreciate your assistance in representing us in this matter.

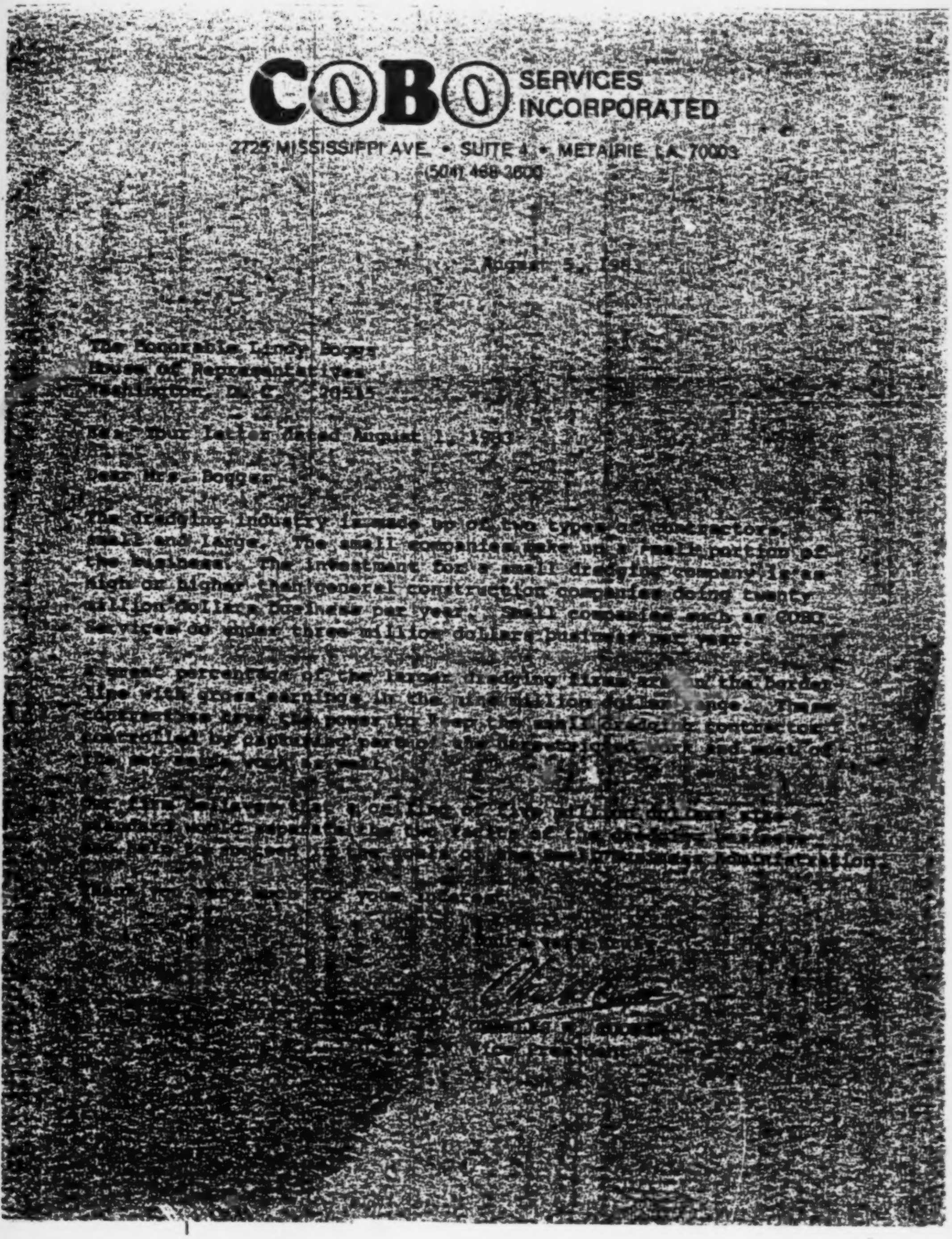
Very truly yours,

J. M. CASHMAN, INC.

Jay M. Cashman

Jay M. Cashman
President

JMC/jmt



COBO SERVICES INCORPORATED
2725 MISSISSIPPI AVE. • SUITE 4 • METAIRIE, LA 70003
(504) 468-3600

August 5, 1983

The Honorable Lindy Boggs
House of Representatives
Washington, D. C. 20515

Re: Your letter dated August 1, 1983

Dear Mrs. Boggs:

The dredging industry is made up of two types of contractors, small and large. The small companies make up a small portion of the business. The investment for a small dredging company is as high or higher than general construction companies doing twenty million dollars business per year. Small companies such as COBO Services do under three million dollars business per year.

A great percentage of the larger dredging firms are on the border line with gross earnings in the nine million dollar range. These contractors have the power to keep the small dredging contractor controlled by capturing part of the unrestricted work and most of the set aside work as well.

Our firm believes that a ceiling of five million dollars size standard would separate the two factors of the dredging business and help to support the goals of the Small Business Administration.

Thank you very much [illegible]

Sincerely,

[illegible]
Vice President

COLONNA'S
SHIPYARD INC

June 29, 1983

Mr. Andrew A. Canellas
Director, Size Standards Staff
Small Business Administration
1441 L. Street, N.W.
Washington, DC 20416

RE: SIC 1629
Federal Register
Vol. 48, No. 89
Friday, May 6, 1983
Proposed Size Standards
Dredging Industry

Dear Mr. Canellas:

As a former insurance investigator within the maritime industry and presently equating a position with a private ship repair facility, I am quite honestly disturbed over the SMA's proposed size standard for the Dredging Industry.

Please let's get realistic and put things within the right perspectives ... 9.5 million dollars earned is inaccurate to say the least.

Let's set the standards on earnings in the consistency of two to three million dollars as average and within the concept of "small concerns" within the Dredging Industry.

Since the standard for the Dredging Industry has for many years been misplaced, you can react by taking the opportunity to correct what is an obvious misinterpretation of the economics in this industry.

Sincerly yours,

Les Naghiu

de

400 East Indian River Road Norfolk, Virginia, U.S.A. 23523 Phone: (804) 545-2414
A Full Facility Plant for Over 100 Years

CONTINENTAL DREDGING, INC.
14610 Roy Road — P.O. Box 1524 — Pearland, Texas 77581
Telephone (713) 485-3285

June 29, 1983

Andrew A. Canellas
Small Business Administration
1441 L Street N.W.
Washington, D.C. 20416

RE: SIC 1629 (Dredging)

Dear Mr. Canellas:

I am President of Continental Dredging, Inc., a small business dredging company. We have been in the dredging business for over 10 years, so I feel like I have a good understanding of what small business in our industry really means.

Last year I submitted comments to you in which I asked whether the SBA was actually interested in helping small businesses or giving the impression of helping small businesses. Unfortunately, your recent proposal of 9.5 million seems to give the answer that the SBA is most interested in helping the Corp. of Engineers set aside contracts without really helping small businesses. Your emphasis on large and sophisticated firms confirms these suspicions that many of us small dredgers have at times had.

This is particularly disappointing because sometimes the SBA seems to recognize that very small firms can be squeezed out by medium sized firms. But when it comes down to the bottom line, the 9.5 million proposal forgets this basic problem and continues to include the medium sized firms that are fully capable of competing outside the small business program.

As long as the SBA title includes small business, I think the agency should focus on small businesses instead of the wishes of the Corp. of Engineers or the medium firms that get most of the set aside contracts. If you had a size standard in the 5 to 6 million range, the truly small businesses like ours would be allowed to gain strength and prosper until the time we could compete effectively with the large firms. Also, with a small size standard, the Corp. of Engineers could open big dredging jobs for competition between the medium and large sized firms. In this way, dredging firms of all sizes would have a fair shot a winning Corp. contracts. That is all we small dredgers are asking for; a fair shot at competing against firms our own size.

I hope you will take these comments into consideration and set a size standard in the 5 to 6 million range.

Thank you very much for your consideration to our comments.

Yours very truly,

CONTINENTAL DREDGING, INC.

B L Northam

B. L. Northam
President

BLN/yc

Cottrell Engineering Corporation

HYDRAULIC DREDGING • GENERAL CONSTRUCTION • ENGINEERING

328 N. BATTLEFIELD BLVD. P. O. BOX 1907 CHESAPEAKE, VIRGINIA 23320 (804) 547-9611

June 13, 1983

Andrew A. Canellas, Director
Size Standards Staff
Small Business Adminstration
1441 L Street, N. W.
Washington, D. C. 24016

Dear Mr. Canellas:

I would like to thank you for your courtesy shown to the writer in meetings we have had with you in the past concerning the Size Standards of the Dredging Industry.

We have reviewed the Size Standards as published in the Federal Register dated May 6, 1983.

We must strongly object to the Size Standards for the Dredging Industry, Standard Number 1629 that has a proposed standard of 9.5 million dollars.

In the opening remarks to the Federal Register, the summary states these changes are being proposed to deal with the effects of inflation and to address the long standing problems of defining small business in certain industries to provide one set of standards for both the procurement and financial assistance programs. In effect what you have done is to not take into account inflation in the dredging industry where it appears to us that you have taken into account inflation as it applied to other industries.

We submit that this is placing an undue hardship on the small dredging industry and has taken it out of context with all other industries.

We suggest that a size standard of at least eighteen (18) million be applied but we further suggest that a size standard of twenty-one (21) and a half million be applied the same as it was done in Major Group 16.

6/16

ALL AGREEMENTS SUBJECT TO STRIKES, FIRES, FLOODS AND OTHER OCCURRENCES BEYOND OUR CONTROL

[illegible]

We believe after you have reviewed these matters you will agree with our position.

Thanking you again for your attention to our problems, we are,

Yours very truly,
COTTRELL ENGINEERING CORPORATION

B. G. Cottrell, President

BGC/ct

DUROCHER DOCK & DREDGE, INC.
MARINE CONTRACTORS
958 NORTH HURON ST • P O BOX 8 • CHEBOYGAN MICHIGAN 49721
TELEPHONE 616-627-5633

F J VAN ANTWERP PRESIDENT
F J VAN ANTWERP JR SECRETARY

RAYMOND C DUROCHER
(1897-1977)

14 June 1983

Administrator
Small Business Administration
1441 L Street, NW
Washington, DC 20416

RE: Proposed SBA Dredging Size
Standard of $9.5 Million

Dear Sir:

I understand that public comments on the proposed small business size standard published May 6, 1983 are being received by you at this time.

Not much has changed since my letter of last year, a copy of which I have attached. There have been cutbacks in funds available for Corps of Engineers Civil Works programs, which is our main field of operations, so that competition for available work is much keener.

We do not feel that it was the sense or meaning of Congress that small business should be forced to compete against large business for government work because it is more convenient for the procuring agency. We feel that small businesses in our dredging industry should be limited to a $5.0 million maximum. We previously said we would accept a $9.5 million standard but in view of the present state of the industry, we feel sure there will be no lack of bidders if SBA set a $5.0 million standard.

We feel we can compete for government work and do a good, economical job but if the large companies can compete for the set-aside work, they will chew us up and spit us out as if we never existed.

The sole beneficiaries of all small business programs should be the small businesses themselves and not the procuring agencies. 48 FED. REG. 20565 says only those firms that have become overly dependent on SBA Aid would be adversely affected. We have been in business 35 years and have no dependence on SBA. The $9.5 million standard has placed the set-aside program out of reach of small business dredging companies.

In closing, I urge the SBA to look squarely at the dredging industry and set a size standard of $5.0 million.

Sincerely,

F.J. Van Antwerp, P.E.
President

FJVA/amm

Enclosure

FALCON MARINE CO.

P.O. BOX 84 • WAUKEGAN, ILLINOIS 60085 • PHONE 312/244-4443

June 5, 1980

WRITTEN STATEMENT PRESENTED BY JERE C. LAPISH,
PRESIDENT OF FALCON MARINE CO., WAUKEGAN, ILLINOIS

PROPOSED SIZE STANDARDS FOR DREDGING AND HEAVY CONSTRUCTION (SIC 1629)
JUNE 5, SBA REGIONAL HEARINGS, CHICAGO, ILL.

My name is Jere C. Lapish, President of Falcon Marine Company of Waukegan, Illinois, which is engaged in dredging and marine construction on the Great Lakes and Lake Michigan in particular. I have been in the dredging and marine construction work for forty years and associated with Falcon Marine for the past thirty years. Falcon operates two small bucket dredges with attendant plant such as tugs, dump scows and deck scows needed in a dredging operation. We also operate a twelve inch hydraulic dredge on an [illegible] basis as a rental unit. Our Company yearly gross volume is 2.25 million a year with an average employee number of thirty.

In my statement today I am representing not only Falcon Marine Company but eight other marine contractors, which are listed at the end of this statement. All of the contractors listed are small business under the past set aside program and defined. We feel that the proposed change in methodology from dollar volume to employment volume is a wise move, which will clarify these definitions. The present dollar volume definitions are rapidly being distorted by inflation. However, we would like to comment on the proposed standards as published in the Federal Register on March 10, 1980, under classification 1629, which set the standards for dredging at 1000 employees and heavy construction, which includes marine construction, at 500 employees. We feel these limits are way to high and in the Great Lakes area would only eliminate one or possibly two contractors presently engaged in dredging and marine construction activities and completely defeat the purpose of the small business set aside program.

In setting the new standards we feel there has to be a good deal of input and research in many areas of consideration. Some of our thoughts and input we will attempt to express here for your consideration.

While we believe the standards as proposed are to high, we also believe they could be lowered to the point of reducing competition so only one or two contractors in a given area could bid on a project, which could remove the competitive bidding process and raise costs to the detriment of the taxpayers.

We feel some large dredging firms may be lobbing under the guise of helping the small business by setting a low standard, which would limit the size of the project the small firm could bid without competition from the large company and only eliminate those projects which the large company couldn't be competitive on and therefore not interested in bidding. This in turn would eliminate many small dredging firms, who by the nature of their type of dredging or because of a shorter work season require more manpower or to keep their personnel, use them in the off season for ship repair, maintenance or other work. To avoid being eliminated these companies would lay off these employees and job the work out to other firms. Some examples follow.

A dredging company operating in an area where a hydraulic dredge can be fully utilized for dredging operations will use less manpower then a company working in an area where dredging projects require a bucket dredge be used because of conditions unfavorable to hydraulic dredging such as found in our area of the Great Lakes and over much of the Great Lakes where seventy-five percent of the dredging jobs are conducted by bucket dredges. A twelve inch hydraulic dredge can be operated efficiently with three to five men per shift where our three cubic yard bucket dredge operation take eight to eleven men per shift. Both would have approximately the same capacity of yards per shift if they were used in conditions that were favorable for each dredge operation.

Also a dredging company working in warmer climates can operate with less manpower to accomplish the same dollar volume and recovery of equipment costs as one working on the Great Lakes. For example, where at least four to five months of the year are unfavorable or impossible conditions for dredging or marine construction operations. This in turn requires hiring more people and working more shifts to take advantage of the shorter season to accomplish the same cost recovery and dollar volume as a contractor able to work a longer season.

We therefore request the administration to review their proposed changes and recall the real intentions for which the Small Business Administration was originally conceived and reduce the number of employees.

In our opinion a fair and equitable number of employees in the dredging and the marine construction classification should be adjusted downwards to approximately fifty to one hundred employees.

Attached you will find copies of letters from my fellow contractors, which I would like included with this statement.

I thank you for the opportunity to testify and give input to this hearing and hope consideration will be given to our request.

Falcon Marine Co.
Waukegan, Illinois

Edward E. Gillen Co.
Milwaukee, Wisconsin

Luedtke Engineering
Frankfort, Michigan

Roen Salvage Co.
Sturgeon Bay, Wisconsin

Zenith Dredge Co.
Duluth, Minnesota

Durocher Van Antwerp Inc.
Cheboygan, Michigan

Lakeshore Contractors, Inc.
Muskegon, Michigan

McMullen & Pitz Construction
Manitowac, Wisconsin

John D. Simpson Construction
Joliet, Illinois

FLORIDA DREDGE & DOCK INC.

2850 Union Street
Clearwater, Florida 33519
Phone (813) 797-6206

July 20, 1982

Honorable Michael Cardenas
Administrator
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Re: Small Business Size Standard
for Dredging

Dear Mr. Cardenas:

This letter and the attached testimony I gave in May, 1980 at an SBA regional hearing in Atlanta are submitted as my written comments on the $9.5 million dredging industry size standard recently proposed by the SBA. These comments will supplement the views I voiced during the September, 1981 metting you held for several of us representing the small firms in the dredging industry.

Three years ago, Florida Dredge and Dock was just starting out in the dredging business. For that reason, I think I have been in a special position to be able to comment on the various size standard proposals. As I stated in our September meeting, the 1,000 employee proposal was ridiculous, and I was very glad to see that the SBA under your direction finally rejected that standard. But, with all due respect, I think the SBA still has more work ahead of it to examine the effect the size standard has on the ability of small firms to enter and survive in the dredging industry. The $9.5 million size standard allows the Corps of Engineers to structure the set-aside program in a manner that effectually eliminates the truely small dredging company from bidding. This ensures the program is dominated by a

FLORIDA DREDGE & DOCK INC.

2850 Union Street
Clearwater, Florida 33519
Phone (813) 797-6206

Honorable Michael Cardenas
July 20, 1982
Page 2

few firms that fall just below the size standard. This being the case, an entrant can certainly not rely on the set-aside program to improve its chances of survival.

If Florida Dredge and Dock is successful enough to become one of the larger firms that now get the full benefit of the set-aside program the SBA will not have assited us and I doubt we will have to worry about the SBA helping small firms become our competitors. only if the SBA changed its size standard to something in the area of $3 million would we face this possibility.

The fact is that a size standard of $3 million really would help small firms like mine get started and help them grow. It would help prevent them from going out of business, as has happened to many firms throughout the country in the last few years. As long as the program is called the small business set-aside program, I think the SBA should make it work to help- not hurt - small firms. So, I urge the SBA to consider a size standard in the $3 million range.

Thank you for all the time you have taken from your other duties to consider personally the concerns of the small dredging companies.

Respectfully,

William D. Fletcher
President

504-265-4813

GRAVOIS - LA. DREDGING CO., INC.

Rt. 1, Box 182-P
Vacherie, La. 70090

June 28, 1983

Size Standard Division
Small Business Administration
1441 L Street, N.S., Room 500
Washington, D.C. 20416

Re: Dredging Size Standards

Dear Sirs:

My name is Ernest A. Gravois, and I own and operate a small dredging company in Vacherie, Louisiana, as I stated in my letter to you last year. I know you've heard from some of the other small dredging companies in my State of Louisiana. We're all concerned about the Small Business Size Standards you have been proposing for the last couple of years for the dredging industry. In this letter, I would like to comment for your public record on your most recent proposal to keep the size standard for dredging at $9.5 million.

Unfortunately, by not changing the $9.5 million size standard, you still aren't helping the truly small dredging firms like mine in their battle to win some of the contracts set aside by the Corps of Engineers in this area. I have heard that the Corps has been pushing for a long time for a dredging size standard that is high enough to allow the big dredgers to do all the work the Corps is required to set aside. I can understand how the Corps might want a big dredging firm to do a big project. But that's not the focus of the small business set-aside program. To me, that set-aside program is supposed to help small businesses get some of the contracts that the big firms usually get, so that the small guys have a chance to make it in this industry. That can't happen, however, if the dredging size standard is so big that even the contracts set aside go to great big dredging firms.

If this is the last round of comments on the dredging size standard, I hope you will study my views and those of other small dredging firms very carefully. We know what it's like to try to compete under the $9.5 million size standard -- we've been trying to do it for years, and it's impossible. To do justice to truly small businesses under the set-aside program, a lower size standard really is necessary. Please think about this and the dredging size standard.

Thank you very much.

Respectfully,

Ernest A Gravois

Ernest A. Gravois

EAG:jpg

Great Lakes Dredge & Dock Company

2122 YORK ROAD
OAK BROOK IL 60521
312 920-[illegible]
TELEX [illegible]
[illegible]

July 23, 1982

Mr. Andrew Canellas, Chief
Size Standards Division
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Re: Small Business Size Standards for
Dredging Firms

Dear Mr. Canellas:

I am the Executive Vice President of Great Lakes Dredge & Dock Company and have been with the firm for 15 years. I have been directly involved with dredging for 34 years. Based on my experience and knowledge of the dredging industry and my business dealings with hundreds of dredging firms, it is my opinion that the SBA's size standard for dredging has always been too high to account for or assist those smaller dredging companies that are most in need of the SBA's program.

In reference to the Notice of Proposed Rule Making proposed by the SBA in the May 3, 1982 issue of the Federal Register, I would like to express my support for the change limiting eligibility to those companies whose revenues do not exceed $9.5 million. In fact, not only do I support this proposed decrease, but I would support even more stringent eligibility rules. I believe that the companies in the industry most badly in need of assistance from the SBA have gross receipts under $5,000,000. There are a large number of firms in the $2,000,000. to $5,000,000. range who are disadvantaged from the standpoint of competition and ability by having to compete with larger firms. Statistics show that 80% of all dredging firms have gross receipts in excess of $5,000,000.

Thank you for giving me this opportunity to share my thoughts with you and your staff. If there is anything I can do to assist you further regarding the dredging industry, I would be more than happy to be of service.

Sincerely,

GREAT LAKES DREDGE & DOCK COMPANY

F. R. Hazard
Executive Vice President

FRH/cjc

OIL FIELD SPECIALISTS SINCE 1943

HBH, INC.

P.O. BOX 55 • HARVEY, LOUISIANA 70059 • PHONE 504/394-6461 • TELEX: 58-7494

June 29, 1983

Mr. Andrew A. Canellas
Director, Size Standards Staff
Small Business Administration
1441 L Street, NW
Washington, DC 20416

Re: Dredging Size Standards

Dear Mr. Canellas:

As I wrote to you last year at approximately this time, I am the President of HBH, Inc. of Plaquemines Parish, Louisiana. At that time I told you that I considered the proposed $9.5 million dredging size standard to be an unrealistic standard for our industry. Particularly here in the South, there are many small firms that are unable to compete with the very large firms that are included in the $9.5 million standard. I said at this time last year that it seemed that the Corps of Engineers preferred a large size standard in order to make it convenient for them to award contracts on a set-aside basis. This appears to be the case even though the actual intent of a Small Business Program would certainly seem to be to help the truly small firms in our industry.

Now I see that the SBA is again proposing to maintain the high size standard of the past. I am disappointed by this because it again ignores the truly small firms that look to the SBA for assistance. I was also disappointed to see that the SBA did not even hide its preference for making high size standards that are favored by the Corps of Engineers. I must again stress that the "sophisticated" firms that the SBA is trying to benefit by its new proposal are not the type of small firms in our industry that need the benefits of a Small Business Act.

As I requested last year, I hope you will think about these concerns before finalizing the $9.5 million standard. If you really want to help small dredging firms, you will set a standard no larger than $5 million. If you will look at the history of small firms here in the South, I am sure you will see that a great majority of small firms has not been awarded many set-aside contracts. I think this can change, and be a change for the better, if the SBA will simply lower the standard to a more realistic level.

Yours very truly,

Harold J. Hughes
President

HJH:lc

7/1 [illegible] 7/5

(Formerly H. B. "BUSTER" HUGHES, INC.)

LA. CONTRACTOR'S LIC. # 563

J. Henry **HOLLAND** Corp.
INDUSTRIAL • CONTRACTORS • MARINE SUPPLIES
5931 THURSTON AVE.
VIRGINIA BEACH, VIRGINIA 23455 • P.O. BOX 5100 • PHONE: (804) 460-3301
PENINSULA 245-2692

June 29, 1983

Mr. Andrew A. Canellas
Director, Size Standards Staff
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Re: Comments on the New Small Business Size
Standards Proposed by S.B.A.

Dear Mr. Canellas:

In reference to the S.B.A. Proposed Dredging Industry Increase, we draw attention to Federal Register notice 48 Fed. Reg. 20560, concerning the explanation that:

> The size of firm eligible to bid on procurements set aside for exclusive small business bidding is of great concern for the Government's procuring agencies, especially the Department of Defense. Since prime purposes of procurement assistance programs are to assure continuation and availability of competition, and to expand the mobilization base, standards for S.B.A. assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process. This proposal is intended to address that concern by not lowering any size standards, and increasing others.

Apparently, from this statement, the S.B.A. is forgetting that their major responsibility is to strengthen small business, by allowing them to grow through bidding on Government contracts against businesses of their own size and capability. The S.B.A. is converting the process into one designed to promote Government agencies. The sole beneficiaries of all small business programs should be small business and not the procuring agencies.

The program's purpose is to assure competition and availability of competition. By increasing size standards, the S.B.A. is including firms with sophistication in the procurement process while by-passing smaller firms which are included in that size standard.

The dredging industry is divided into three groups, small, medium, and large. By raising the size standard the S.B.A. is forcing the truly small firms to compete with the medium and large firms. With the size standard at $5 million instead of the current $9.5 million, many smaller firms would come into being, thereby expanding the Army Corp of Engineers' competitive bid base.

Under the Defense Acquisition Regulation (DAR) the Corps' interest is protected by vesting authority in the contracting officer with the decision to award contracts on the basis of small business plants and equipment being insufficient to perform the job.

Many small (below $5 million gross) dredging firms have gone out of business in the last two decades and at least three small firms since petitioning the S.B.A to lower its' size standard. In contrast, no dredging firm grossing more than $5 million annually can be identified as "having gone out of business".

The S.B.A.'s regulations explain that in those industries in which the standard is raised, there may be a small risk that newly eligible (larger) firms may take contracts away from smaller firms. Justifying this result by saying that only those small firms that have become overly dependent on S.B.A. aid would be adversely affected, the S.B.A. is overlooking the dredging industry.

The $9.5 million standard has in fact, placed the set-aside program out of the reach of small dredging companies and has set the stage for the medium sized firm to become overly dependent on the S.B.A. assistance by urging a higher standard as their businesses grow to the current standard. These companies will remain dependent unless the S.B.A. standard is lowered to a reasonable level that will realistically approximate the size of truly small firms in the industry.

With the current $9.5 million size standard the S.B.A. is restricting bidding generally and limits the number of competitors which results in higher prices. With the taxpayer being overburdened as it is and the country going further in debt, it behoves the Government to look for ways to reduce spending. The S.B.A. can aid in this process by inviting more truly small businesses to come into being, broadening the competitive base for the Corps' "set aside" works.

This size standard is a serious problem for businesses in our area as well as up and down the East Coast and we would appre-caite anything the S.B.A can do to solve this problem.

Yours truly,

J. HENRY HOLLAND CORP.

John H. Holland III
President

GB/fb

cc: Senator Paul S. Trible
Senator John W. Warner
Senator Jesse A. Helms
Representative G. william Whitehurst
Representative Norm Sisisky

TELEPHONE (504) 466-1637
467-9471

T. L. JAMES & COMPANY
INCORPORATED

EXECUTIVE OFFICES
RUSTON, LOUISIANA

P. O. BOX 826
KENNER, LOUISIANA 70063-0826

July 12, 1983

Mr. Andrew Canellas, Chief
Size Standards Division
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Re: Small Business Size Standards
for Dredging Firms

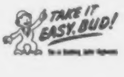
Dear Mr. Canellas:

I am attaching hereto a copy of my letter of July 13, 1982, wherein I strongly commended your decision to focus attention on the small firms of our industry. I would like to re-emphasize the following points in further support of reducing the size standards for dredging firms.

The Small Business Act was designed to assist small firms to compete against one another for government procurements; but it seems that the SBA has become more concerned with promoting government agencies' procurement objectives by increasing size standards to include larger firms with sophistication in the procurement process. In doing so, many of the smaller firms will be by-passed and will not be given the opportunity to obtain such sophistication. These middle-size firms would then dominate the Small Business Set-Aside Program, and the truly small businesses would not survive. It might be noted that should this occur, the SBA, for the purposes it was created, will be considered to have misused its authority under the Small Business Act.

As previously pointed out in my letter of July 13, 1982, the $9.5 million size standard should be lowered in order to allow the existing small dredging firms to provide competent, competitive and experienced service. If the size standard were established at $5 million, the few middle-size dredging firms that now dominate the set-aside program would be eliminated; thereby reserving the market for small firms. Let me also point out that these middle-size firms have become dependent on SBA assistance, and will remain so, as long as the size standard remains at $9.5 million.

7/14


TAKE IT EASY, BUD!

Once again, let me thank you for letting me share my thoughts with you on this matter, and I urge you to take these factors into consideration when making your final decision regarding the small business size standard for dredging firms.

Yours very truly,

T. L. JAMES & COMPANY, INC.

LPMathews

L. P. Mathews
Vice President

LPM/kmw
Enclosure

cc: G. W. James, Jr.
Geo. D. Williams

TELEPHONE 729-2811

T.L. JAMES & COMPANY
INCORPORATED

EXECUTIVE OFFICES
RUSTON, LOUISIANA

P. O. BOX 826
KENNER, LOUISIANA 70063-0826

July 13, 1982

Mr. Andrew Canellas, Chief
Size Standards Division
Small Business Administration
1441 L Street, N. W.
Washington, D. C.   20416

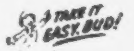
Re: Small Business Size Standards
for Dredging Firms

Dear Mr. Canellas:

I have received a copy of the Notice of Proposed Rule Making proposed by the SBA in the Federal Register on May 3, 1982. I strongly commend the decision by you and by the SBA to focus attention on smaller firms. My company, T. L. James & Company, Inc. is not a small business, but we do substantial work for the U. S. Army Corps of Engineers. I believe we can, therefore, speak with some experience and insight as to the appropriate level or range in the dredging industry below which a dredging company should be considered small and should be preferentially treated for purposes of small business set-asides.

There are a large number of dredging firms in the country that generate $5,000,000.00 or less gross annual receipts per year. These firms and particularly those in the $2,000,000.00 - $3,000,000.00 range are disadvantaged from the standpoint of competition and ability, and I believe the SBA's focus for constituency should be these firms.

I notice that the proposal for $9.5 million for dredging is a substantial decrease from the prior proposal of 1,000 employees, and I strongly commend your office for that adjustment. I should hasten to add, however, that the $9.5 million size standard, which is and has been in effect a number of years, has served to benefit only a small number of the larger firms in the small business category. This is particularly true in the southwestern part of the United States, where I believe you will find that the ability for a firm smaller than $5,000,000.00 gross annual receipts to survive is severely limited. I believe you will find that 80% of all dredging firms are in excess of $5,000,000.00 gross annual receipts.



I realize the SBA, and your office in particular, have received substantial information and input regarding the dredging industry. I would fully expect that the small handful of firms mentioned above are argueing for higher standards so that they can continue to dominate the set-aside business. I believe you will find, however, that these firms are every bit as competitive as are larger firms, and, therefore, need not remain in the small business set-aside program.

Thank you for giving me this opportunity to share my thoughts with you and your staff. If there is anything I can to do assist you further, in the way of specific information regarding the dredging industry, I would be more than happy to be of service. I have spent more than twenty years of my life in the dredging industry, and I sincerely believe that this background provides me with a reliable basis to gauge a reasonable size standard for dredging that is consistent with the focus proposed in the Federal Register.

Sincerely yours,

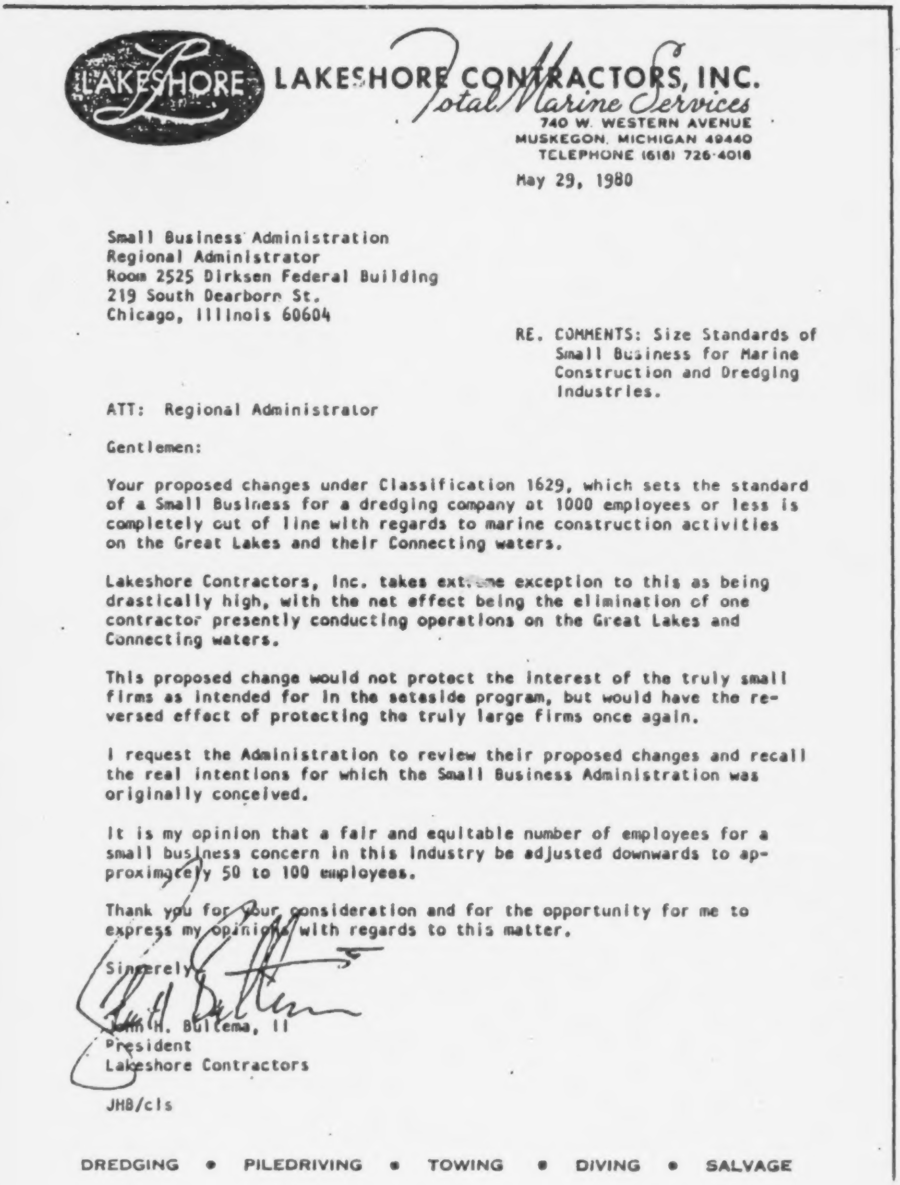
T. L. JAMES & COMPANY, INC.

LPMathews

L. P. Mathews
Vice President

LPM/kmw

cc: G. W. James, Jr.
Geo. D. Williams



LAKESHORE LAKESHORE CONTRACTORS, INC.
Total Marine Services
740 W. WESTERN AVENUE
MUSKEGON, MICHIGAN 49440
TELEPHONE (616) 726-4016

May 29, 1980

Small Business Administration
Regional Administrator
Room 2525 Dirksen Federal Building
219 South Dearborn St.
Chicago, Illinois 60604

RE. COMMENTS: Size Standards of Small Business for Marine Construction and Dredging Industries.

ATT: Regional Administrator

Gentlemen:

Your proposed changes under Classification 1629, which sets the standard of a Small Business for a dredging company at 1000 employees or less is completely out of line with regards to marine construction activities on the Great Lakes and their Connecting waters.

Lakeshore Contractors, Inc. takes extreme exception to this as being drastically high, with the net effect being the elimination of one contractor presently conducting operations on the Great Lakes and Connecting waters.

This proposed change would not protect the interest of the truly small firms as intended for in the setaside program, but would have the reversed effect of protecting the truly large firms once again.

I request the Administration to review their proposed changes and recall the real intentions for which the Small Business Administration was originally conceived.

It is my opinion that a fair and equitable number of employees for a small business concern in this industry be adjusted downwards to approximately 50 to 100 employees.

Thank you for your consideration and for the opportunity for me to express my opinions with regards to this matter.

Sincerely,

John H. Bultema, II
President
Lakeshore Contractors

JHB/cls

DREDGING • PILEDRIVING • TOWING • DIVING • SALVAGE

J. A. LAPORTE, INCORPORATED
DREDGING - CONSTRUCTION
3600 SOUTH FOUR MILE RUN DRIVE
ARLINGTON, VIRGINIA 22206
PHONE: 671-7800

RECEIVED
JUL 19 11 33 AM '83
OFFICE OF THE
ADMINISTRATOR

July 18, 1983

The Honorable James C. Sanders
Administrator
Small Business Administration
1441 L Street, N. W.
Washington, D. C. 20416

Dear Mr. Sanders:

We are a dredging company with our office in Arlington, Virginia. We do most of our dredging work for the Army Corps of Engineers under the Small Business Set-Aside Program.

We support your proposed standard of a $9.5 million size limit. This will allow those large companies that have "graduated" from the program to continue to grow and prosper.

The $9.5 million limit will also allow the Program to be large enough to be meaningful.

Very truly yours,

John MacDonald

John MacDonald
President

CC: Andrew J. Cannellas, Director
Size Standards Staff
Small Business Administration
Washington, D. C. 20416

LATEX CONSTRUCTION COMPANY
P. O. BOX 11668 • ATLANTA, GEORGIA 30305 • AREA CODE 404 458-6741

W. E. HONEY, *Chairman of The Board*
W. E. HONEY, JR., *President*
J. M. PHIPPS, *Executive Vice President*
HARRY S. BAXTER, *Vice Pres. & Gen. Counsel*
D. S. PYLE, *Vice Pres. & Chief Engineer*
O. F. ELDER, *Secretary-Treasurer*

July 21, 1982

Mr. Andrew A. Canellas, Director
Office of Industry Analysis
Small Business Administration
1441 "L" Street, N.W.
Room 500
Washington, DC 20416

REF: SMALL BUSINESS SIZE STANDARD FOR DREDGING
(SIC 1629)

Dear Mr. Canellas:

I am the Chairman of the Board and Chief Executive Officer of Latex Construction Company. Latex has owned two 20" pipeline dredges for over 15 years. We are located in Savannah, Georgia and have for many years sought dredging contracts awarded by the Corps of Engineers. We have had no success in this regard, however, principally because of the set-aside program which has resulted in awards to firms that no one can reasonably consider small.

I have corresponded with your office in the past because of my concern for what is obviously a grossly unfair and unsound implementation of the set-aside program. I will say at this point that the proposal by your office of $9.5 million gross annual receipts is a vast improvement over the Carter Administration proposal of 1,000 employees. The problem, however, is that $9.5 million, which is the present small business size standard for dredging, will continue to benefit three or four firms at the expense of all other firms in the industry. When I say this I mean that the many small dredging firms that exist throughout the country are in a completely different category from the three or four large firms at the top of the $9.5 million standard. These small firms rightfully need assistance from the Small Business Administration but obviously are denied assistance because of the liberal situation created by the excessively

Member

PIPE LINE, STATION & TERMINAL CONSTRUCTION • HYDROSTATIC TESTING • HYDRAULIC DREDGING
SERVING THE INDUSTRY 35 YEARS

high $9.5 million size standard.

Your recently published "Proposed Rules" (May 3, 1982) do an excellent job of explaining the legitimate purpose of small business programs. As you note on Page 18992: "Small concerns often are forced to compete with middle-sized as well as very large firms." That is precisely what has happened in the dredging industry over the past decade or more.

On the two or three occasions in which my firm has had an opportunity to compete with these so-called "small business" firms they have proven themselves fully capable of competing successfully in open competition. Therefore, no legitimate reason exists to support continued coverage of these firms by the Small Business Administration.

Dredging is a specialty trade of construction, and is quite similar to certain of the industries you list in your "Major Group 17." In particular, your size standard for SIC 1794 (excavating and foundation work) list $6.0 million. Dredging cannot be identified as anything but excavation, and a dredge is nothing but a piece of equipment for excavating. I hope the Small Business Administration is aware of and able to analyze the size of the various firms in these respective industries, because such analysis would reveal a tremendous number of small firms below the $5.6 million mark.

If I can, or anyone of my organization can, provide any further information to help the Small Business Administration understand the dredging industry, or to obtain information about the firms of the industry, I would be happy to assist in every way possible. I think you have done an excellent job to refocus the Small Business Administration towards the small firms. I just hope that you will be able to obtain sufficient data of the dredging industry to allow you to complete this effort with a fair and equitable result. Although it is difficult for me to provide all of the data you need to support this conclusion I believe a size standard in the range of four to five million dollars would be consistent with the Small Business Administration's published objective, and would achieve the results as originally intended by the Congress - to assist SMALL BUSINESS.

Thank you.

Sincerely,

LATEX CONSTRUCTION COMPANY

W.E. Honey

W. E. Honey
Chairman of the Board

WEH/gd

MARITIME TRADES DEPARTMENT
AMERICAN FEDERATION OF LABOR and CONGRESS OF INDUSTRIAL ORGANIZATIONS

815 SIXTEENTH STREET, N.W., SUITE 510
WASHINGTON, D.C. 20006 (202) 628-6300

FRANK DROZAK, PRESIDENT
STEPHEN J. LESLIE, VICE-PRESIDENT
JEAN INGRAO, EXECUTIVE SECRETARY-TREASURER

AFFILIATES:
Aluminum, Brick and Glass Workers International Union
American Guild of Variety Artists
Federation of Professional Athletes, AFL-CIO
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
United Brotherhood of Carpenters and Joiners of America
United Cement, Lime, Gypsum and Allied Workers International Union
International Chemical Workers Union
Communications Workers of America
Distillery, Wine and Allied Workers International Union, AFL-CIO/CLC
International Brotherhood of Electrical Workers
International Union of Elevator Constructors
International Union of Operating Engineers
International Association of Fire Fighters
International Brotherhood of Firemen and Oilers
United Food and Commercial Workers International Union
Glass, Pottery, Plastics and Allied Workers International Union, AFL-CIO/CLC
American Federation of Grain Millers
Graphic Arts International Union
Hotel Employees and Restaurant Employees International Union
International Association of Bridge, Structural and Ornamental Iron Workers
Laborers' International Union of North America
AFL-CIO Laundry and Dry Cleaning International Union
International Leather Goods, Plastics and Novelty Workers Union
International Longshoremen's Association, AFL-CIO
International Association of Machinists and Aerospace Workers
Industrial Union of Marine and Shipbuilding Workers of America
National Marine Engineers' Beneficial Association
International Union of Allied, Novelty and Production Workers, AFL-CIO
Office and Professional Employees International Union
Oil, Chemical and Atomic Workers International Union
International Brotherhood of Painters and Allied Trades
United Paperworkers International Union
Operative Plasterers' and Cement Masons' International Association of the United States and Canada
United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada
Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes
Retail, Wholesale and Department Store Union
United Rubber, Cork, Linoleum and Plastic Workers of America
Seafarers International Union of North America
Sheet Metal Workers International Association
American Federation of State, County and Municipal Employees
United Telegraph Workers
United Textile Workers of America

June 28, 1983

Mr. Andrew A. Canellas
Director
Size Standard Staff
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20410

Dear Mr. Canellas:

The Maritime Trades Department, AFL-CIO, representing eight and one-half million workers in 44 affiliated trades, would like to take this opportunity to express our concern relative to the May 6 Small Business Administration proposed revisions to the size standards that govern eligibility for the set-aside program. The proposed rulemaking, if implemented, would maintain the $9.5 million annual receipts standard currently in force for dredging contractors engaged in the set-aside program. It is our firm position, supported by two government studies and numerous industry comments, that the standard does not, in any meaningful fashion, fulfill the laudable intent of the set-aside program -- to foster the development of the small business community.

It is worthwhile to recall the language of the enabling regulations, 13 C.F.R. 121.3-1(b)(iii), which clearly defines the underlying intent of the SBA set-aside program.

> Smaller concerns are often forced to compete with middle-sized as compared with very large concerns. In consideration of this fact, the standard for each industry should be established as low as reasonably possible. It should be lowered in any case where the SBA determines that a few concerns under the size standard umbrella have, because of their size, gained undue competitive strength as compared with other concerns under the umbrella.

7/1 [illegible]

The evidence clearly indicates that a few concerns have gained an undue competitive strength as a result of their size. For example, in the Southeast region, where the vast majority of set-aside dredging projects are performed, six dredging contractors have won over 90 percent of the set-aside contracts over the last 20 years. As a result, the more than 100 smaller dredging contractors in the Southeast region have not derived any tangible benefits from the "small business" set-aside program. Consistent with the policies outlined in the aforementioned enabling regulations of the SBA set-aside program, such evidence mandates a downward adjustment of the size standard.

The continued application of an unrealistically high standard of $9.5 million in gross annual receipts only serves to frustrate the development of small dredging contractors. This fact is reaffirmed by two government studies which examined the appropriate size standard for set-aside dredging projects. The National Dredging Study, an 18-month Congressionally mandated study completed in December of 1974, recommended a dredging size standard of two to three million dollars in gross annual receipts.

Furthermore, the Chief of Engineers of the U.S. Army Corps of Engineers, in August of 1975, contracted out to the marine engineering consultant team of Mark Gurnee and Leo Tobia to perform a similar analysis of the appropriate dredging set-aside size standard. The study, commonly referred to as the Gurnee Report, concluded that a dredging size standard in the neighborhood of three to four million dollars in gross annual receipts would best serve the interests of the set-aside program.

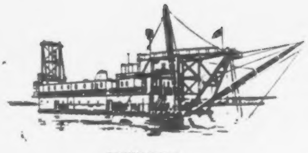
The conclusion of these studies has been further collaborated by comments submitted to your office in response to previous size standard revision proposals. The previous size standard proposal of May 10, 1982 contained the identical $9.5 million gross annual receipts standard for the dredging industry. Of the 30 comments submitted to your office concerning the dredging size standard, 25 advocated a downward adjustment of the standard to a level in the neighborhood of two to five million dollars in gross annual receipts.

It appears to us that the conclusions of two government studies, expert advice of numerous industry representatives, and actual experience in the field have fallen upon deaf ears within the Small Business Administration. We suggest that the SBA re-acquaint itself with the intent and spirit of the set-aside program and properly realign the dredging size standard to a level of four to five million dollars in gross annual receipts. The Maritime Trades Department believes that such a standard would target the benefits of the set-aside program to its designated audience, the truly small dredging contractors.

Sincerely,

Frank Drozak

Frank Drozak
President


SINCE 1930

DREDGING SERVICE
MERRITT DREDGING COMPANY
MAIL ADDRESS: POST OFFICE BOX 31299 · CHARLESTON, S. C. 29407
[redacted] REPAIR YARD: 500 ALBEMARLE RD · CHARLESTON, S. C.
TELEPHONE: (803) [redacted] OFFICE 762 1100
(803) 571-3704 REPAIR YARD

June 24, 1983

Mr. James C. Sanders
Administrator
U. S. Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

RECEIVED
JUN 27 1 04 PM '83
OFFICE OF THE
ADMINISTRATOR

Re: Federal Register
Vol. 48, No. 89
Friday, May 6, 1983
Proposed Size Standards
Dredging Industry

Dear Mr. Sanders:

We would like to register our objection to the proposed dredging industry size standard of 9.5 million dollars.

The small business dredging firms have been laboring under adverse conditions for several years due to inflation and to the change in scope of work created by the need of much more expensive dredging plant and the need to invest in large volumes of pipeline to perform jobs in the Small Business catagories. The capitol investment need to be competitive in today's market has increased many fold. Dredging is a capitol, labor and energy intensive industry; changes since the mid-70's in environmental regulations and workmen's compensation laws have contributed significantly to higher costs of doing business. While maintaining a relatively constant contract load in terms of material volume the dollar volume has increased at a much lesser rate.

It is our opinion dredging should be treated with the same degree of consistancy as the other nine divisions, (C) construction groups of $21.5m as printed on page 20569 of the Federal Register.

You will note that there was an 81% increase over the past standard. To retain the $9.5m standard is inconsistent with the published rationale of adjustment for inflation since 1975 and further is a reduction in the standard considering the effects of inflation in lowering the $9.5m in comparison to real dollars. We, therefore, request that the new standard be no less than $17.2m which is in the same percentage range afforded other contracting businesses. We also desire the opportunity to comment on issues related to the above beyond the July 5, 1983 deadline for written comments.

We will appreciate any avenue of dialogue between you and any other group concerned about the current proposed standards.

Very truly yours,

MERRITT DREDGING COMPANY

Kaye C. Green

Kaye C. Green
President

KCG/cap

cc: Mr. Andrew A. Canellas
Small Business Administration

Senator Thomas Hartnett
Washington, D.C.

Senator Strom Thurmond
Washington, D.C.

Mr. R. M. Buchanan
Chesapeake, Virginia

Mr. Thomas Wetta
Kenner Marine
LaPlace, Louisiana

McMULLEN & PITZ
CONSTRUCTION CO.
MARINE CONTRACTORS & ENGINEERS
MAIN OFFICE & YARD MANITOWOC, WISCONSIN

P. O. BOX 8
923 COMMERCIAL STREET
MANITOWOC, WIS. 54220
PHONE: 682-0131

P. O. BOX 1212
1301 STATE STREET
GREEN BAY, WIS. 54305
PHONE: 437-9922

May 20, 1980

Falcon Marine Co.
P. O. Box 84
Waukegan, Illinois 60085

Attention: Mr. J. C. Lapish

Gentlemen: RE: DEFINITION OF SMALL BUSINESS

Reference is made to your letter of May 14, 1980, calling attention to the proposed changes and revisions to the size standards of small business as published in the Federal register on March 10, 1980.

Our firm's primary function is marine and heavy construction, including dredging, which would place us under classification No. 1629 with proposed size standard (number of employees) as follows:

Heavy Construction, including Marine ---- 500
Dredging ---- 1000

To be realistic, these standards should be established at 50, or certainly not more than 100 employees, as the majority of the marine contractors operating on the Great Lakes do not employ more than 100 people, even during their busy season.

To be truly representative of small business under classification No. 1629, the above suggested standards should be adopted.

Kindly conveyour suggestions to the appropriate representative of the Small Business Administration.

Sincerely,

MCMULLEN & PITZ CONSTRUCTION CO.

By Willott A. Pitz
Willott A. Pitz, President

WAP:gt

NEHALEM RIVER DREDGING
P.O. BOX 151
NEHALEM, OREGON 97131
Phone: (503) 368-5616

TESTIMONY OF MR. VERN R. SCOVELL, PRESIDENT NEHALEM RIVER DREDGING COMPANY, OF NEHALEM, OREGON

S.B.A. REGIONAL HEARING OF SEATTLE, WASHINGTON
MAY 22ND, 1980

My name is Vern R. Scovell, I have been the president of Nehalem River Dredging Company for the past 17 years, during which time my company, which owns and operates an 8-inch dredge, has employed anywhere from 6 to 9 employees at any one time. We have been competing for Corps of Engineers dredging work since 1967. Since that time, on an average, we have been awarded less than $100,000.00 from the Corps. The greatest volume of Corps work we have performed in one year has been about $300,000.00. In bad years, however, we don't receive any Corps work. For example, last year, our gross from all work, both government and private, was a net minus. The year before that, we grossed about $300,000.00. My 8-inch hydraulic dredge when operating on a 24 hour basis, is capable of performing a Corps contract in the approximate amount of $400,000.00.

From the stand point of my firm, and I think many others, a realistic size standard for small businesses would be something like 10 or 15 employees. I am willing to agree that a firm somewhat larger than mine could still be legitimately characterized as a small business. However, when you reach any size greater than 30 or 40 employees, in dredging, you are no longer dealing with the type of firm which is small and needs the S.B.A.'s preferential assistance. Right now if you took my average size, which is about 8 employees, and multiplied it by 5, you would come up with 40 employees. Because of the capital intensive nature of the dredging industry, and the tremendous cost of dredging equipment, there is a substantial difference between a firm with 8 employees and a firm 5 or 10 times that size. No one having any appreciation for dredging equipment or for dredging industry or the work called for by the Corps could reasonably conclude, however, that a dredging firm with greater than 40 employees should receive small business assistance at the expense of much smaller firms like Nehalem River Dredging Company, yet that is exactly what is happening right now.

It probably is easy for the S.B.A. and the Corps of Engineers to conveniently ignore small firms like mine, and the hundreds of other small dredging firms throughout the country that operate an 8-inch, 10-inch, 12-inch or 14-inch dredge. Yet that is exactly what has been apparent during the past 2 decades that I have been in the dredging business. And now, with the S.B.A.'s proposal of 1,000 employees as a dredging size standard, I can only conclude that the S.B.A. either has no concern for firms such as mine, or it is operating in a state of complete ignorance that we even exist. The largest contract that I have ever been awarded is $150,000.00. Even though my equipment is perfectly capable of performing dredging contracts in the $400,000.00 range, however, contracts of this size are always awarded to much larger firms. It may be more difficult for the S.B.A. and the Corps of Engineers to award set-a-side contracts to the hundreds of small dredging firms that exist in this country with fewer than 40 employees. But these are the firms that very much need the Corps work to help their small businesses survive. As I understand the purpose of the Small Business Act, these firms are precisely what the Small Business Administration and it's programs were intended to aid. The fact that the smallness of the firms does not give the Corps of Engineers the additional margin of financial and operational capacity that it probably would prefer has nothing to do with the S.B.A.'s responsibilty to assist these small firms and promote their interest with the procuring activity.

I have come today in the hope that the S.B.A. in fact does care about small firms such as mine, and is willing to listen to our problems and lend us their assistance. The S.B.A.'s set-a-side program can provide us with a vital source of revenues, if it is designed by the S.B.A. to assist us and not the much bigger firms that really ought to compete on the basis of open competition. Only by setting the size standard at 30 or 40 employees, however, can the S.B.A. ensure that it's program is in fact benefiting the many small firms that are struggling to survive in the dredging industry.

I am grateful for any careful consideration that is given by the S.B.A. to my testimony today. Thank you.

ED NEMER CONSTRUCTION CO., INC.
P.O. BOX 1081
FLORENCE, ALABAMA 35631

PHONE (205) 766-5384

July 1, 1983

RECEIVED
JUL 6 10 23 AM '83
OFFICE OF THE
ADMINISTRATOR

Honorable James C. Sanders, Administrator
Small Business Administration
1441 "L" Street N. W.
Washington, D.C. 20416

Dear Sir:

Ed Nemer Construction Company was started in November of 1972 and incorporated in December 1973. We presently have fifteen employees including office personnel. We have employed as high as thirty-five at peek times.

We have in the past been able to secure very few government contracts due to bidding against larger firms rabher than those our own size.

I, as President of Ed Nemer Construction Co., Inc., feel that the Small Business Act was intended to strengthen small businesses by allowing them to compete for government procurements against firms their own size however over the years it as been converted into a program to promote government agencies''procurement objectives, not small business survival. We do hope that the size standard will be lowered in order to allow more active participation by the smaller businesses.

We grew from $400,000.00 per year proceeds in 1973 to a peek of $2,300,000.00 in 1981 and decreased to $1,100,000.00 in 1982.

Presently due to not being able to secure adequate bonding and a diminished selection of jobs that warrants the potential of strong growth and profit we need to maintain our company we are having an auction August 4, 1983 to disperse of all our dredging equipment.

Very truly yours,

ED NEMER CONSTRUCTION CO., INC.

Edward L. Nemer

Edward L. Nemer
President

INDUSTRIAL DREDGING

7/7

Newport Dredging Company

~~P.O. Box 507~~ 2713 N.E. 132nd Avenue
~~Newport, Oregon 97365~~ Portland, Oregon 97230

July 1, 1983

Mr. Andrew Canellas
Chief, Size Standards Division
Small Business Administration
1441 L Street N.W.
Washington, D. C. 20416

Dear Mr. Canellas:

I am writing this letter to again urge the SBA to consider lowering the current size standards.

My views have not changed since writing previous letters to Small Business Administration on this subject dated July 27, 1982 and May 19, 1980, copies of which are enclosed. These letters will refresh in your mind our thoughts and the problems created for the small dredging companies under the present size standard.

We want and need a lower size standard for the dredging industry from the $9.5 million size standard now in effect to a more appropriate size of $2-5 million range.

We ask again for serious consideration to be given to our request.

If the SBA has any questions regarding our request, please feel free to contact me.

Very truly yours,

NEWPORT DREDGING COMPANY

W. E. Glanville

Walter E. Glanville, Owner
WEG:pmg

Enclosure: Letter dated July 27, 1982
Letter dated November 19, 1980

7/7

"DREDGING • LAND RECLAMATION • RIVER AND HARBOR IMPROVEMENTS SINCE 1899"

NORFOLK DREDGING COMPANY
110 NORTH CENTERVILLE TURNPIKE
POST OFFICE BOX 1706
Chesapeake, Virginia 23320

Telephone
(804) 547-9391

Branch Office and Yard
3415 S.W. 96th Street
Stuart, Florida 33497

June 27, 1983

Mr. Andrew A. Canellas
Director, Size Standards Staff
Small Business Administration
1441 L. Street, N.W.
Washington, D. C. 20416

RE: SIC 1629
Federal Register
Vol. 48, No. 89
Friday, May 6, 1983
Proposed Size Standards
Dredging Industry

Dear Mr. Canellas:

As a member of the Southeastern Dredge Owners Association (SEDOA) who voted with the minority at the SEDOA meeting of June 6, 1983, referred to you by SEDOA letter dated June 17, 1983, we want to inform you of the opinion of the minority of its members.

Those who advocate an increase in the Size Standard and the continuation of the Small Business Set Aside Program as it has been administered in the dredging industry in the States of Virginia, North Carolina, South Carolina, Georgia and Florida fail to understand the intent and purpose of the "Small Business Set Aside Program". In administering the program within the purview of the Small Business Act it is important to consider, among other things the requirements to:

1. Consider that small concerns often are forced to compete with middle-sized as well as very large firms. [CFR 13,121.3-1 (b)(2)(iii)]

2. Administer the Act so that "SBA assistance should not be regarded as a permanent nor as the primary source of a firms' sales. It should be used to assist a firm to compete in the regular business world, without becoming dependent on continuing Government aid. Small businesses should not rely on Federal assistance from the cradle to the grave, but should plan for the day when they can compete without assistance. [Fed. Reg. Vol. 48, No. 89, May 6, 1983 - Proposed Rules - 121.1(e)]

It is nice, and, a comforting thought that the government will classify a dredging business with 9.5 million dollars of average annual sales as a "small" business and protect it from competition and the economic realities of the business world. It is the protected segment of the dredging industry, the "middle-sized" businesses that is contending that the industry consists of only "small" and "big" business. This vocal group of "middle-sized" dredging companies now ask for further protection from the "cradle to the grave" by contending that "small" includes a dredging concern having average annual sales of seventeen to twenty-one million dollars. Even though the thought of continuing or even increasing the size standard in the dredging industry may be appealing to this and other companies, it is contrary to the economic realities of the dredging industry and more importantly to the expressed intent and purposes of the Small Business Act.

It is interesting that those who advocate the continuation of the 9.5 and/or ask for an increase in the Standard to seventeen to twenty-One million dollars contend that the dredging industry does not have any "middle-size" concerns without attempting to provide any support for such a proposition. An inspection or survey of the equipment, and a simple analysis of the investment and the operations of such businesses will show that such concerns do not qualify as "small" as the term is defined in the Small Business Act.

If it is the desire of the administration to continue to support and protect the "middle-size" dredging business to the detriment of the small dredging business, the size standard should be retained or increased. If, however, there is a genuine desire to assist the "small" dredging concern, the size standard for the dredging industry should be brought in line with the realities of the economic environment in which such firms work and the intent and purposes of the Small Business Act. Small companies attempting to enter the dredging market place are unable to survive because they are unable to compete with the middle-sized firms that never graduate from the protection afforded by the Set-Aside Program.

We are confident that a study of the industry will support the conclusion that the set-aside program for dredging should be limited to businesses of twenty employees, that have an average annual sales of two million dollars and to projects with estimated costs of less than $250,000.00, unless special circumstances dictate that the work is not compatable with the program.

On behalf of the minority companies of the organization, we would like to maintain communication with your office and render such assistance as may be appropriate to determine a size standard in keeping with the intent of the Small Business Act and consistent with conditions in the dredging industry.

Very truly yours,

NORFOLK DREDGING COMPANY

Russell J Thorne

Russell J. Thorne
Executive Vice President

RJT:cg

cc: The Honorable John W. Warner
The Honorable Paul S. Trible, Jr.
The Honorable Jesse A. Helms
The Honorable G. William Whitehurst
The Honorable Norman Sisisky
The Honorable Herbert H. Bateman
The Honorable Charles G. Rose
The Honorable Walter B. Jones

(with copy of referenced letter)

O & M Dredging Corporation
RT. 1 BOX 132
WILMINGTON, NC 28405

Mr. Andrew A. Canellas
Director, Size Standards Staff
Small Business Administration
1441 L. Street, N.W.
Washington, D. C. 20416

RE: Federal Register
Vol. 48, No. 89
Friday, May 6, 1983
Proposed Size Standards
Dredging Industry

Dear Mr. Canellas:

We note that it is proposed to retain the dredging industry size standard at 9.5 million dollars average yearly gross. We take this opportunity to voice our objection.

Since it has for many years been apparent that the size standard as specified for the Dredging Industry has failed to benefit the small dredging firms, it should be brought in line with the realities of the industry.

Anyone familiar with the dredging industry should realize that a standard of 9.5 million dollars does not benefit the small dredging concern. If the SBA is truly interested in assisting the small dredging concern, it should set the standard within the range of about three million dollars. You will then find that the small businesses will receive the assistance and benefits they are entitled. Otherwise, if you continue the standard at nine and one-half million you will continue to assist the medium and large firms to the exclusion of the small firm.

I hope that you will use your best efforts to bring the size standard down to the level that it will help the small concern.

Very truly yours,

6/24 [illegible]

PALMBERG CONSTRUCTION CO.
311 S. E. GALENA AVE., WARRENTON, OREGON 97146
PHONE 503/861-1642

Administrator, Small Business Administration
1441 L Street NW
Washington, D.C. 20416

Re: Size Standard For Dredging

HEREWITH A FEW FINAL COMMENTS - PLEASE READ BEFORE FILING:

1. ALL JOBS UNDER $1,000,000 CAPABLE OF PERFORMANCE BY A SMALL DREDGING FIRM SHOULD FIRST BE SET-ASIDE.
2. SET-ASIDE BIDS MORE THAN 25% OVER ENGINEER'S ESTIMATE SHOULD BE REBID AS NON-SET-ASIDE WITH NO CHANGE IN ESTIMATE OR SPECIFICATIONS.
3. RE-BID WITH CHANGE IN ESTIMATE OR SPECIFICATIONS MUST BE SET-ASIDE.
4. VOLUME OVER $3,000,000 PER YEAR FOR 3 YEARS IS NOT SMALL BUSINESS.
5. SMALL BUSINESS REPRESENTATIVE MUST BE SUBJECT TO DISMISSAL IF PROTEST BY SMALL DREDGING FIRMS OF SET-ASIDE PROGRAM IS FOUND JUSTIFIABLE BY HIGHER AUTHORITY.

I've operated a small dredging firm for over 35 years, served many years on the SBA Portland District Advisory Council, and submitted during the last few years many written comments and recommendations relative to the size standards for dredging with no direct SBA responses - and, on now retiring, I realize how inappropriate and ineffective the administration of the Small Business Dredging Set-Aside Program has been for our company.

I sincerely hope that in the future your Administration can do a better job representing Small Business Firms.

Respectfully yours,

Palmberg Construction Co.

by H.G. Palmberg

H.G. Palmberg, Pres.

JAMES D. GOODLOE Chairman of the Board GEORGE M. GOODLOE President & Treasurer

PARKHILL • GOODLOE CO., INC.
DREDGING CONTRACTORS
P. O. BOX 8707 • JACKSONVILLE, FLORIDA 32239
TELEPHONE: (904) 743-4332

June 22, 1983

Mr. Andrew A. Canellas
Director, Office of Industry Analysis
Small Business Administration
1441 L Street, Northwest, Room 500
Washington, D. C. 20416

RE: Proposed Rule
Small Business Size
Standards

Dear Mr. Canellas:

I wish to comment on the proposed rule covering Small Business Size Standards as published in the May 6, 1983 Federal Register, Volume 48, Number 89. My comments are directed in particular to the Standard for the Dredging Industry, also the Construction Industry as a group. I request that my letter be made a part of the official record.

As you know the SBA has proposed that the Standard for Dredging remain at the same level as set in 1975 namely $9.5 million. I am at a loss to understand this proposed standard, particularly after reading the section titled, "Methodology for Setting Size Standards". In this section the SBA states and I quote:

> "The technique for adjusting for inflation focuses on a single measure - the GNP deflator. This measure is used in the National Income Account to calculate GNP adjusted for inflation (real GNP). This measure is more sophisticiated than other measures of inflation in both method and coverage. It includes the price of all goods and services in the economy whether paid by consumers, businesses, or the public sector. Thus, it is the most conprehensive price index since it includes all sectors of the economy.
>
> "The appropriate adjustment period will vary from industry to industry depending on the year of its last adjustment for inflation. In the majority of non-manufacturing industries the last adjustment occurred in 1975 based on 1974 data. Thus the deflator for

> 1974 of 115 (1972=100) is compared with the estimated deflator of 208 for the third quarter of 1982. The total change of +81 percent is then applied to those size standards last adjusted in 1975 to calculate the proposed revisions. In instances where size standards have been set after 1974, the adjustments are commensurately less to reflect the shorter period in which inflation occurred."

The standard for dredging as you can plainly see has not been given the benefit of an adjustment for inflation. In the event the size standard for dredging remains at the 1975 standard of $9.5 milion which was based on 1974 cost we are faced with a sizable reduction as far as the purchasing power of real 1983 dollars are concerned. The 1975 Size Standards have been under review since 1979 therefore if you apply the same time table to a new standard adopted this year the next change will take place sometime during 1987/1991. In the event the next change takes place as outlined above 1975 dollars will have to absorb up to 16 years of inflation. No business can absorb 16 years of inflation. This means that we, as well as our small business competition, will be forced out of business. Our equipment is almost exclusively suitable for performing the type and scope of dredging projects being set aside and is not competitive on most other projects requiring the large multi-million dollar dredges owned by big businesses.

In addition to the inflation factor the direct cost of environmental regulation must be taken into consideration. During the 8 year period (1975/1983) diking cost and pipe line length (60% environment cost) have more than doubled the cost on some jobs (1975 cost vs. 1983 cost). The net effect of just these two items has increased our cost over 100% while the size standard has remained constant. Something is very wrong within the system if this logic stands.

We also note from the Federal Register under "Summary of Results", and I quote:

> "The size standards in construction, retail, and services are presently stated in gross receipts. Under the new approach the size standard for both the procurement and financial programs will be based on the present procurement size standard increased for inflation unless problems are known to exist. In the majority of industries in which a number of comments have been received pursuant to the Advance Notices, the inflation adjustment will accomodate the views of the commentors including the procuring agencies. However, in a few industries, specific problems are not resolved through the inflationary adjustment."

I feel that the specific problem regarding the size standard for dredging referred to above centers around the very strong efforts of large dredging companies to reduce the size standards for dredging from $9.5 million dollars to less than $5. million dollars. They have engaged lawyers and lobbyists at considerable cost to simply put us out of business. Big business has the resources to buy all of us when we are placed in a position where we can not compete. Small business, because they are small, do not enjoy this same luxury. The question we have is why should the wolf control the financial keys to the hen house? A lower standard ($9.5 million not adjusted for inflation) plainly puts big business concerns in this position. This is detrimental to business in general and to the government and all taxpayers.

After reading the entire section on Proposed Small Business Size Standards in the Federal Register (May 6, 1983, Part II) and all other factual data available to me I am compelled to respectfully demand that the SBA reconsider their discriminatory action against small dredging concerns as published in the proposed rules. I strongly feel that our standard should be increased by no less than the percentage (81%) increase other Division C construction concerns received ($12.0 million to $21.5 million = 81%). I therefore strongly support a Standard for Dredging in the amount of no less than $17.2 million ($9.5 million x 1.81% = $17.2 million).

In closing I also request that we be advised of any hearings/meetings, etc. regarding this very important matter. We will gladly participate in any meaningful dialogue, etc. My company has been competitive in the dredging business a number of years and I will not sit back and let big business with their big bank accounts control our destiny. In the interest of fair play we respectfully request the Small Business Administration to give due consideration to a request from a small business concern that would like very much to stay in business.

Very truly yours,

PARKHILL-GOODLOE CO., INC.

George M. Goodloe

George M. Goodloe
President

GMG/pal

PATTON, BOGGS & BLOW
2550 M STREET, N. W.
WASHINGTON, D. C. 20037
(202) 457-6000

CABLE BARPAT
TELECOPIER 457 6315

WU TELEX 89 452
ITT TELEX 440324

LONDON
COTTS HOUSE
CAMOMILE STREET
LONDON EC3A 7DN
01 283 9091
TELEX 888 2384

SAUDI ARABIA
P O BOX 154
MAHMOUD STREET
AL KHOBAR SAUDI ARABIA
864 3083
TELEX 67 318

JAMES R PATTON JR
GEORGE BLOW
CHARLES OWEN VERRILL JR
JOSEPH L BRAND
THOMAS HALE BOGGS JR
TIMOTHY J MAY
HARRY A INMAN
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J GORDON ARBUCKLE
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LAWRENCE S MEYER
RICHARD A EARLE
ERNEST S CHRISTIAN JR
ROBERT H KOEHLER
E BRUCE BUTLER
DAVID B ROBINSON
JOHN H VOGEL
ALLAN ABBOT TUTTLE
BART S FISHER P C

JAMES G O'HARA P C
JOHN L OBERDORFER
LINDA ELIZABETH BUCK
LANNY J DAVIS
DOMENICO DE SOLE
TIMOTHY A VANDERVER JR
WILLIAM J COLLEY
JOHN F WOODS
TIMOTHY A CHORBA
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MIDDLETON A MARTIN
GARRET G RASMUSSEN
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DEREK W LINDEN
DANIEL F WAKE
JOAN MCCARTHY
JEFF TURNER
CHARLES E TALISMAN
IRA A FISHMAN
JEANNE C TRAHAN

OF COUNSEL
WILLIAM D HATHAWAY
CHARLES D COOK

WRITER'S DIRECT DIAL
(202) 457-6436

June 30, 1983

Andrew A. Canellas
Director, Size Standards Staff
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Re: Dredging Industry Size Standard - SIC 1629

Dear Mr. Canellas:

On behalf of the Dredging Industry Size Standard Committee (DISSC), a coalition of twenty small and seven large dredging firms, we are submitting these comments on the $9.5 million dredging size standard proposed by the Small Business Administration (SBA) in the May 6, 1983 Federal Register. In the past, many of our members have petitioned the SBA to lower the size standard for dredging to a realistic level that, for the first time, would allow the small business set-aside program to benefit legitimately small dredging firms.*/ This letter, which again urges the SBA to lower the size standard to the $4-5 million range, is made on behalf of the Committee as a whole.

During the past several years, we have provided the SBA with statistical information showing that the $9.5 million standard serves to protect a few medium-sized firms that, as a consequence of their economic advantage over the scores of small firms also under the size standard, heavily dominate the set-aside program. We have also referred the SBA to two past independent studies that recommended the size standard for dredging be lowered. The time has come for the SBA to establish a size standard designed to aid the multitude of small firms in the dredging industry.

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*/ Copies of comments submitted by DISSC and DISSC members in response to the SBA's advance notices of proposed rulemaking are attached and incorporated herein by reference.

Unfortunately, the SBA apparently has chosen to abdicate its responsibility to strengthen small businesses in favor of facilitating government procurement. With surprising candor, the SBA explained in its May 6 proposal that it set standards "sufficiently high to involve firms with substantive capability and sophistication in the procurement process," as was desired by procuring federal agencies, especially the Department of Defense. This arbitrary and capricious deference to procuring agencies is unquestionably an abuse of the agency's responsibility towards small businesses. Were it the SBA's mission to facilitate government procurement, there would be no size standards and no set-aside program at all.

The SBA abdication forfeits any chance of achieving the Small Business Act's goals of increasing the competitive nature of the dredging industry and expanding the dredging mobilization base. These goals are hardly achieved by protecting a few medium-sized firms that are already solidly entrenched in the dredging industry; indeed, they can only be met by setting a size standard that allows small firms an opportunity to become more competitive and to establish themselves within that mobilization base.

Perhaps the most telling evidence of the failure to help small businesses to date comes from comments submitted by the select few medium-sized firms themselves. In appreciation of the vast benefits they have received under the small business program, they now urge the SBA to increase the size standard and allow them to continue their domination. This is not a case of small firms becoming overly dependent on the SBA, as the SBA warned on May 6 (48 Fed. Reg. 20565); on the contrary, it is a few medium-sized firms that dominate Corps procurements in their regions and have shown themselves to be fully capable of "graduating" that seek further protection at the continued expense of the many truly small dredgi[illegible]

We remind the SBA that the Department of Defense (and the Corps of Engineers) is not the principal constituency of the SBA. Further, there is no validity to the Corps assertion that a realistic size standard will not attract competent bidders for Corps procurements. What a realistic standard will accomplish is to require the Corps to [illegible] effort to bring truly small firms which are not "sophisticated" and which may have some difficulty in competing on an unrestricted basis into the Corps procurement effort. This, of course, is the primary purpose of the set-aside program. In instances where despite such efforts the Corps cannot find small businesses with plant and equipment capable of performing a particular job, the Corps is always free to award the contract under open competition. In all other cases, a smaller size standard will guarantee that the Corps awards a job to one of the many small, capable and willing dredging firms seeking to grow and prosper with the help of the small business program.

As the SBA has itself recognized, "smaller concerns often are forced to compete with middle-sized as well as very large firms." 47 Fed. Reg. 18992. This fact is nowhere more evident than in the dredging industry, where the select group of middle-sized firms are allowed to dominate the set-aside program in spite of repeatedly having shown themselves to be quite capable of competing in open competition. We strongly urge that the SBA not continue to cater to the Corps of Engineers and these few firms, and instead move to further the interests of legitimately small dredging firms by setting a size standard of $4-5 million.

Sincerely,

Joe R. Reeder

JRR/day
Attachments

Location: SNEAD ISLAND
PHONE 722-3300

Pillsbury Dredging Company, Inc.
1512 53rd Ave. W.
PALMETTO, FLORIDA 33561

June 17, 1983

Mr. Andrew A. Canellas
Director, Size Standards Staff,
Small Business Administration
1441 L. Street N.W.
Washington, D. C. 26416

Re: The New Small Business Size Standards Proposed by the SBA.

Dear Mr. Canellas:

The proposed rules published May 6, 1983 are very disappointing to Small Dredging Firms such as mine. The Size Standard for dredging is so high that the small firms the program is intended to help are not allowed to compete. The medium sized firms are the ones that dominate the set-aside program.

The concern of the Government's procuring agencies with the size of firms eligable to bid on procurements set aside exclusively for small business deserves sympathy but this does not serve the needs of Small Business. It would seem that Small Business Survival should be a much higher priority for the SBA than the promotion of government agencies' procurement objectives. The agency most concerned with dredging (Department of the Army Corps of Engineers) is adequately protected by the Defense Acquisition Regulation and therefore does not need the protection of the SBA.

In the dredging industry the medium sized firms will continue to reap the benefits of the set-aside program unless the standard is lowered to a level that realistically approximates the truly small firms. More competition can be made available in the dredging industry by protecting the small firms and allowing them to grow than protecting medium and large firms with substantive capability and sophistication that need no protection.

Sincerely,

PILLSBURY DREDGING CO., INC.

Albert V Pillsbury
Albert V. Pillsbury, Pres.

AVP:ea

420

Mrs. Loyd W. Richardson, Chairman of the Board
R. C. Thwing, President

LWR

Loyd W. Richardson Construction Corporation
General Marine Contractors
Dragline Work — Pile Driving — Towing — Barging — Dredging
1054 South Rife • P. O. Drawer HHH
Aransas Pass, Texas 78336

Phones
758-5381
Night Numbers
758-5381
758-3073
Corpus Christi
882-8474

June 29, 1983

Mr. Andrew Canellas, Director
Size Standards Staff
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Re: Proposed Revision of Small Business Size Standards.

Dear Mr. Canellas:

Loyd W. Richardson Construction Corporation is a small marine contractor located in Aransas Pass, Texas, and like other small marine contractors, we perform dredging services along the Texas coast. We would like to urge the Small Business Administration to change the size standard for SIC #1629 Dredging and Surface Cleanup Activities from the present $9.5 million dollar standard to the $21.5 million dollar standard. This would make this change consistent with the other heavy construction activity changes made for the SIC #'s 1521 thru 1629 Heavy Construction Except Dredging. The same type of economic and inflationary factors that affected and helped change the proposed size standard for these industries to $21.5 million dollars, have also been present in the dredging activity. We cannot understand why this one major construction activity was overlooked when the changes were made.

We have had the same amount of dredging equipment and personnel for the last twenty years, and during this period our payroll costs have increased over 600%. Our payroll costs have increased over 175% since 1975, the last time that the dredging size standard was changed. Other costs, especially fuel costs, have also increased tremendously since these dates. These cost increases have necessarily been reflected in the contract per yard bid prices. These higher per yard bid prices have increased the gross contract amount during these same periods by comparable percentages. Thus, the price for dredging the same amount of yards of material increased between 200 to 400% during the last twenty years.

These increases naturally destroy the validity for maintaining the same old $9.5 million dollar gross sales volume measurement which was adopted in 1975.

We urgently need this size standard changed to the $21.5 million dollar figure in order to help preserve the existence of the small dredging companies that rely upon this program. At the present time there are about six of these small firms that greatly rely upon the "small business set aside program".

Your favorable determination to increase the size standard for small dredging companies to $21.5 million dollars will be greatly appreciated.

Very truly yours,

LOYD W. RICHARDSON CONST. CORP.

By Henry J. Neumann
Henry J. Neumann, Secy-Treas.

cc: Senator Lloyd Bentsen
Senator John Tower
Congressman E. "Kika De La Garza
Congressman William Patman
Congressman Solomon P. Ortiz
Mr. Brian Deery, Associated General Contractors
Mr. Herman, Director, Federal Constracts Special Chief Economist

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July 27, 1982

Mr. Andrew A. Canellas
Chief, Size Standards Division
Small Business Administration
1441 L Street, N. W., Room 500
Washington, D. C. 20416

Re: Dredging Industry Size Standard

Dear Sir:

On June 6, 1980, I sent your predecessor the attached letter, urging a size standard of no more than 40 employees for the dredging industry. I understand that the Small Business Administration has come out with its' latest proposal to keep the present size standard of $9,500,000. This equates to well over the number of employees that a small dredging firm needs.

Since June, 1980, the number of employees in my company has dropped from 50 to just 1 - me. If the SBA is truly interested in helping small business firms, such as mine, something should be done immediately, to lower the dredging size standard to a more realistic figure. A standard of $3 to $4 million would help small dredging companies compete successfully for dredging contracts set aside for small businesses. I believe the SBA dredging standard should be set at 45 employees, or less.

Thank you for considering my views on the SBA's proposed size standard for the dredging industry. In the economic conditions we face today, small businessmen, such as myself, need help, if they are to survive, and must rely on the good judgement of those who regulate industry for some of that help.

Very truly yours,

ROBERTSON SAND & GRAVEL
Leon Robertson

LR/cm

ROSE MARINE, INC.

July 12, 1983

HONORABLE ANDREW A. CANELLAS, DIRECTOR
Size Standard Staff
Small Business Administration
1441 L. Street, N. W.
Washington, D.C. 20416

Re: Proposed Small Business Size
Standards

Dear Mr. Canellas:

Please accept this letter as being in favor of increasing the proposed size standards for small industry classifications, Division "C" (SIC) 1629 (Marine Construction and Dredging).

We would like to explain in the following information why we feel the size standard should be increased.

Rose Marine, is primarily involved in marine construction and dredging. We act as a general contractor and subcontract other areas of work which are out of our specialty (such as electrical and plumbing).

We started Rose Marine in November of 1975 primarily as a subcontractor for pile driving and have gradually built the business into a major marine construction company. We have completed numerous contracts for the U.S. Navy, U.S. Coast Guard and the U.S. Army Corps of Engineers.

We strongly support the increase in the proposed size standard of $21.5 million average annual gross revenue from the present $12 million which has been in effect for a substantial period of time. The present size standard is totally out of line with the present cost of operations. The heavy construction business is a capital investment area of operation requiring a tremendous investment in equipment. For example, a 60 ton crane mounted on a barge in 1975 cost approximately $500,000.00 and in 1983 costs $1,100,000.00. A 65' tug boat in 1975 cost $350,000.00 but in 1983 costs $900,000.00. I have only used two examples of the increased cost of equipment and I am certain you are aware that the interest rate and debt service on equipment loans has increased over 50% during the past few years. Similarly, maintenance costs have followed this same trend.

The above figures demonstrate that equipment cost has increased over 100% on the average while the size standard volume has remained constant.

7/15

POST OFFICE BOX 884 • SAVANNAH, GEORGIA 31402 • TELEPHONE (912) 232-4409

Our labor rates have increased more than 100% since 1976. Our gross sales in 1976/77 was 50% of the SIC standard. Today with only a 20% increase in our labor force we may exceed the present standard of a small business this year, while our labor force has only slightly increased. This obviously demonstrates a very small growth in the size of our company. Rose Marine may be excluded in 1983/84 from set-aside programs due to the current economic characteristics of our business. The above analysis demonstrates that this growth is a function of factors beyond management decision and control.

One final distinction is that a company which does not regularly engage in large projects is inexperienced in estimating and bidding. This lack of professional talent leads to mistakes and severe financial problems which may result in additional cost and delays to the Government.

We again would like to strongly endorse the proposed increase in the SIC size standard. If there is any further information that we can supply you to support the increase please feel free to call me or contact me.

Very truly yours,

ROSE MARINE, INC.

Hugh A Cheshier

HUGH A. CHESHIER
Vice President

C:es

SABA DREDGING COMPANY, INC.

"Specialists in Hydraulic Dredging"

PHONE 341-3139 AREA CODE 504
POST OFFICE BOX 363
WESTWEGO LA 70094-0363

S A A B

June 29, 1983

Andrew A. Conellas
Director of Size Standard Staff
Small Business Administration
1441 L Street, Northwest
Washington, D.C. 20416

Re: Dredging Size Standards

Dear Mr. Conellas:

My name is C. A. Crane, and I am with Saba Dredging Company, Inc., as a small firm in Louisiana, and your proposed size standard for the dredging industry has caused me to write this letter.

My problem with the $9.5 million size standard is that it includes firms that are many times our size. Since, a small firm like ours cannot realistically bid against such large firms, set aside are basically of not any help to us.

Most of us small dredgers have always known that the Corp of Engineers prefers a high standard. After all, it is not their responsibility to worry about who gets restricted contracts, but if SBA cares about that, then you will set a low standard that forces the Corp to reserve small jobs for small firms.

I think a standard of no more than $5 million is necessary.

I hope that someday, our firm will be large enough to be outside of this program, but until then, I want to be able to bid against other firms our size and not against the large firms that get most of the contracts.

Thank you for the opportunity to submit these comments, and I hope you will seriously listen to them.

Very truly yours,

C. A. Crane,
Saba Dredging Company, Inc.

SALMONS DREDGING CORPORATION
MARINE CONTRACTORS AND ENGINEERS

SUBMARINE PIPE LINES AND CABLES
SHIP SALVAGE OPERATIONS, DIVING, PIERS, DOCKS AND BRIDGES
FACILITIES AVAILABLE AT OUR TERMINALS FOR VESSELS OF ALL TONNAGE
CHERRY HILL LANE ON SHIPYARD RIVER

TELEPHONE A. C. 803
722-3613

P. O. BOX 42, ZIP 29402
CHARLESTON, SOUTH CAROLINA

June 27,1983

RECEIVED
JUN 29 1 51 PM '83
OFFICE OF THE
ADMINISTRATOR

The Honorable John C. Sanders, Administrator
U.S. Small Business Administration
1441 L Street, N.W.
Washington,
D.C. 20416

Dear Sir:

Please refer to the proposed rule change of the sixe standard for dredging as published in the May 6,1983 Federal Register.

We have reviewed the proposed changes in the size standard for the construction industry, and specifically the proposed size standard for dredging. We urge you not to adopt the standard for dredging as proposed.

Due to rampant inflation and increasing environmental cost, it is essential that the standard be increased. We strongly recommend that the standard for dredging be increased in the same manner as the other construction categories. This would increase the present standard of $9.5 million by 81% to approximately $17.2 million, and would be consistant with increases of the size standard for the construction industry.

Very truly yours,

Richard W. Salmons, President
SALMONS DREDGING CORPORATION

cc: Mr. Andrew Canellas,Director
U.S. Small Business Administration
1441 L.Street, N.W.
Washington, D.C. 20416

7/7

Dear Mr. Salmone:

This is in response to your letter of June 27, 1983, to the Small Business Administration, in which you state a preference for a higher size standard in the dredging industry than the presently proposed $9.5 million in gross receipts.

The dredging industry traditionally has been one of the most controversial standards which the SBA has attempted to administer. The SBA has received many public comments over time on this size standard and this pattern has continued with the last Advance Notice of Proposed Rulemaking in which we received 29 public responses. Of these 29 responses, a clear majority (23 respondents) desired lower standards, three desired the present standard of $9.5 million, and three respondents proposed higher standards. However, the lowering of a size standard in response to this public response was seen as a difficult decision in light of inflationary trends and the fact that dollar-based size standards in the notice are being raised for most other industries.

After consultation with the Corps of Engineers concerning its perceived needs, we felt that there was not enough evidence at that time to propose changing the size standard from the present $9.5 million. The SBA has, however, set up a task force in consultation with the Corps of Engineers to investigate this industry by sending questionnaires to the various dredging firms. In this way we hope to improve the information on this industry and perhaps come up with an improved size standard.

We hope that this information will meet your needs. If we may be of additional assistance, please do not hesitate to contact us.

Sincerely,

/s/ Andrew A. Canellas

Andrew A. Canellas
Director
Size Standards Staff

SS/OA/RNRay:jp 7-13-83 653-6373
Control No. 116151 - Due Date 7-21-83
cc:
ES - 1043 CLA - 1024 SSS Read - 500
A - 1046 SSS Subj - 500

Telephone 364-5211

Sandau Dredging

Don Sandau

677 - 78th Avenue N. E. – Salem, Oregon 97301

TESTIMONY OF MR. DONALD W. SANDAU

SANDAU DREDGING CO., SALEM, OREGON

S.B.A. REGIONAL HEARING, SEATTLE, WASHINGTON

May 29, 1980

My name is Donald W. Sandau. I am the president and owner of Sandau Dredging Company, and have occupied this position for the past 18 years. I own one 12-inch hydraulic dredge and employ an average of no greater than 7-10 employees per year.

Frequently I operate in the same areas in which Mr. Herb Palmberg, owner of Palmberg Dredging Company, operates. Over the years he and I and several other dredging firm owners with less than 20 employees repeatedly have shared disappointments and frustrations regarding the S.B.A.'s programs, which we believe were plainly intended to assist small firms such as our's, but which actually have been diverted in the most part to other, much larger, firms. The S.B.A. can and must focus it's attention and concerns away from these much larger dredging firms and rededicate itself to small businesses. Otherwise it is a sham for the S.B.A. to contend that it's programs are helping small businesses, as they should.

Historically, the S.B.A.'s set-aside program in this part of the country has been somewhat meaningless to the many small dredging firms like mine, because it just hasn't effectively resulted in awards to these firms. In fact, until two or three years ago, the hopelessness of performing such Corps work was such that my firm has pretty much restricted it's efforts to private contracts. Under present economic conditions, and economic conditions which have been in existence for over two or three years, to survive we have been required to compete for federal government dredging contracts, only to find that firms many times our size continue to totally dominate such awards. In my opinion, any small business size standard in excess of thirty or forty employees is totally unrealistic. Also, a figure higher than thirty or forty employees completely ignores what actually constitutes a small business in the dredging industry.

A size standard of forty employees would permit my firm to multiply in size at least fivefold and still be considered a small business. On the other hand, it seems to me to be somewhat ridiculous to hold my firm out as a small business if it grows five times it's present size. The S.B.A.'s decision to propose a small business size standard of 1,000 employees for dredging is beyond belief. I honestly don't know how to even address it. I've never even heard of a dredging firm with anything coming close to 1,000 employees. Anyone who objectively analyzes the dredging industry would agree that even 75 or 100 employees is ridiculously high. Dredging equipment that would even support an average annual employment of 50 employees would cost many millions of dollars and would represent the kind of financial, strong, healthy type of firm that should not be included within the S.B.A.'s programs. This is the reason I say that 30 or 40 employees must be the small business ceiling for dredging.

If my firm is so small that the S.B.A. simply doesn't care about it, or whether S.B.A. programs provide my firm with any meaningful assistance, I wish the S.B.A. would have the guts to come right out and say so. Indirectly, that is exactly what the S.B.A. is saying when it draws a line higher than 30 or 40 employees, because it is plain to me just which firms will benefit from the program if the size standard is set at a higher number of employees. It is equally plain that firms like mine will continue to struggle on the fringes of financial survival if the S.B.A. continues to focus on much larger firms.

I don't have the resources to fight the S.B.A. if it is determined to avoid addressing the real problems of firms like mine. Frankly, leaving my business and coming to Seattle to ask the S.B.A.'s help has been an undertaking that taxes a small operation, and I hope that it hasn't been a waste of time. I also hope that some of the other hundreds of small dreding operations like mine throughout the country also take the time and expense to be heard. Even if they don't, however, I don't believe that gives the S.B.A. the license to completely ignore the existence and needs of these small firms. The S.B.A. has a statutory responsibility to identify small dredging firms and implement it's programs so that assistance intended for these firms actually reaches the intended destination. It hasn't done that. I can only hope that the S.B.A.'s Regional Hearings, which are a good idea, help the Small Business Administration to learn about and redirect it's intention to small businesses. Thank you.

JOHN D. SIMPSON Construction Co. Inc.
RURAL ROUTE THREE • JOLIET, ILLINOIS 60431
AREA CODE 815
TELEPHONE: 729-4604

June 3, 1980

Regional Administrator
Small Business Administration
Room 225 - Dirksen Federal Building
219 S. Dearborn
Chicago, Illinois 60604

Re: The Definition of Small Business Concerns.

Gentlemen:

We are writing to express our opinion of the proposed revision to size standards of small business as published in the Federal Register on March 10, 1980.

Our Company operates as general contractors engaged in heavy and marine construction, including hydraulic and clamshell dredging. We feel that to be classified as small business the number of employees should be less than one hundred. To set the standard higher than this is unrealistic.

Very truly yours,

JOHN D. SIMPSON
CONSTRUCTION CO., INC.

John D. Simpson
President

JDS:mg

WALTER LARKE SORG ASSOCIATES

1625 EYE STREET, N.W.
SUITE 204
WASHINGTON, D.C. 20006
(202) 293-5492

June 29, 1983

Mr. Andrew J. Canellas
Director
Size Standard Staff
Small Business Administration
1441 L St., N.W.
Washington, D.C. 20416

Dear Mr. Canellas:

I want to thank you for your help and cooperation in providing us an opportunity to review the comments the SBA has received on the proposed dredging industry size standard, which was published in the Federal Register on May 6, 1983.

The members of the Southeastern Dredge Owners Association, as you know, have protested the proposed $9.5 million size standard and are requesting that the appropriate size standard be $21.5 million -- the same as for the Heavy Construction industry (SIC 1629). In any event, it should not be set lower than $17.2 million, which would at least take care of the inflation factor.

The purpose of this letter is to confirm our understanding that the comment period has been extended to July 15, 1983.

Our plan is to have the detailed comments mailed to you soon after July 5, and no later than July 15, 1983.

Again, thanks for your cooperation.

Sincerely,

Walter Larke Sorg

Walter Larke Sorg

cc: William S. Hull

Ack 7/5

SOUTHEASTERN DREDGE OWNERS ASSOCIATION

WILLIAM S. HULL
PRESIDENT

B. G. COTTRELL
VICE-PRESIDENT

H. GEORGE DENT, JR.
SECRETARY-TREASURER

P. O. Box 15284
WRITTEN AT: Chesapeake, Va. 23320

July 7, 1983

The Honorable James C. Sanders
Administrator
Small Business Administration
1441 L Street, N. W.
Washington, D. C. 20416

Re: 13 CFR Part 121 Request to increase the Size Standard for the Small Dredging Industry from $9.5 million to $21.5 million commensurate with inflation, environmental and other incremental cost factors which have occurred since 1975.

Dear Mr. Sanders:

The Southeastern Dredge Owners Association was established in 1934 to promote the use of small dredges in support of the nation's waterways. The association has continuously sought to strengthen the small business dredging industry.

This letter not only represents the views of our members but those of many non-member small dredging companies with whom we have been in close communication since the publication of the Proposed Rule 13 CFR Part 121 on May 6, 1983.

In discussing the promulgation of the Proposed Rule, SBA argues persuasively for the adoption of "across the board" higher size standards, particularly to adjust for higher inflationary costs which have occurred since the adoption of the present size standards in 1975.

It is distressing to the small business segment of the dredging industry that no relief has been proposed for them. They have not only been negatively impacted by inflation but have been forced to absorb greatly increased costs to meet environmental requirements. If the proposed size standard remains at $9.5 million, a large segment of the small dredging industry faces an economic crisis of such major proportions that many may be forced out of existence. This is particularly true in the Southeastern Region of the United States, in which small dredging companies have made sizeable investments in plant and equipment to compete for small business set-asides.

Of the 27 industrial groupings which comprise Division C-Construction the only group not recommended for an increased size standard is the dredging industry (SIC 1629). For all others the Small Business Administration has proposed an upward adjustment inflation factor of 181%.

The dredging industry has not existed in an economic vacuum. It has experienced the same inflationary pressures as all other segments of the economy. Indeed, because it is an extremely large consumer of energy we submit that the impact of inflation has been even more damaging to them than to any other industry in Division C. When environmental regulations are added to the equation we submit that the adjustment recommended by SBA should have exceeded the 181% factor proposed for other groups in Division C.

We, therefore, urgently request that SBA again review its proposed size standard for dredging companies. In so doing we hope that it will adopt a size standard of $21.5 million for the small dredging industry, an overall increase of 226% from the 1975 standard of $9.5 million.

The following discussion provides justification for our request to increase the small dredging size standard to $21.5 million.

Adjust for Inflation

The Small Business Administration persuasively argues for increasing the size standards of small businesses which are established on the basis of annual receipts, all of which are included in Division-C Construction. Central to its argument is the impact of inflation since adoption of the present size standards in 1975. In its discussion of the proposed rule the SBA states:

> "...inflation is a well-known economic phenomenon by which the real value of any quantity measured in dollars becomes diminished. In recognition of this, SBA, in 1975, made a general adjustment to receipts size standards for inflation and is proposing to do so again. The intent of this proposal is to give the size standards a real value equivalent to that which existed in 1975, or whenever a receipts size standard may have been subsequently established. Firms have been losing SBA eligibility due to inflation, and an adjustment will help remedy this..." (emphasis added)

The dredging industry has not only absorbed "normal" inflation but has been uniquely impacted by its heavy use of petroleum products to conduct its operations.

In 1975, the Dredging Industry Size Standard was increased from $5 million to $9.5 million. As far as is known, there were no serious objections to this increase at that time. The new size standard was accepted by the industry, the United States Army Corps of Engineers and the Small Business Administration. Since few, if any, objections were raised in 1975 it must be assumed that the $9.5 million standard was fair and adequate to all interested parties at that time. On this basis alone a minimum upward adjustment to $17.2 million is fully justified eight years later ($9.5 million X 181%).

Adjust for Environmental Regulations

The dredging industry has been heavily impacted by environmental regulations. For example, since adoption of the present size standard in 1975 diking costs and pipe line length (60% attributable to environmental costs) have more than doubled the costs of many jobs. We submit that no other industry in Division-C Construction has been more heavily impacted by environmental regulations than has the dredging industry.

Dredging is a labor intensive industry. Changes in workman's compensation have also contributed significantly to higher costs of doing business.

For the reasons cited in this section we believe that an increment higher than that proposed for other industries in Division-C Construction be granted the small dredging industry. The formula we recomment is:
Present Size Standard ($9.5 million) X Inflation Adjustment Factor (181%) + Unusual Environmental Costs (45%) = New Size Standard ($21.5 million).

Adjust for Defense and National Security

Because of defense and national security requirements, there is a vital need to maintain navigable ports, harbors, and waterways leading to ports and harbors along the Coastal areas of the United States (the need also exists for foreign trade and commerce).

The small business set-aside program must have size standards high enough to include firms with the technical and operational capability to meet the requirements of the set-aside contracts for dredging. This need for a higher size standard for dredging is clearly and explicitly explained in the SBA's Proposed Rule:

> "... the size of firm eligibility to bid on procurements set-aside for exclusive small business bidding is of great concern for the Governments' procuring agencies, *especially the Department of Defense*. Since prime purposes of procurement assistance programs are to assure continuation and availability of competition, and to *expand the mobilization base, standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication* in the procurement process..." (emphasis added)

Given the vital role the dredging industry plays in our National Defense it concerns us that this important role has not been conisdered by SBA in drafting its proposed rule.

In a letter to the Army Corps of Engineers dated February 12, 1982, the SBA cited a survey which it had requested the Corps to undertake of the Corps' Districts. All respondents favored a size standard of $9.5 million or higher. Eighteen respondents favored a standard higher than $9.5 million. Of these, three favored a $20 million size standard; three favored a size standard between $12 million and $20 million; and the remaining 12 Districts favored a $12 million standard. Those Districts favoring a higher size standard were responsible for 50% of the total set-aside dredging activity in 1980 and 66% of the total activity in 1981. Clearly, the procurement arm of the Corps' Districts favor a higher size standard.

Size Standard Adjustment Based on Competitive Characteristics of the Dredging Industry

An examination of the dredging industry structure, an analysis of Federal contracts, and discussions with dredging firms reveal a fairly clear picture of the nature of competition in this industry. Although we can only identify some 75 dredging firms in the United States, other estimates on the total number range from 225 to 300 firms. There are at least 20 very large dredging firms that exceed the current SBA small business size standard. These large firms operate on a national basis. Most of them compete for dredging contracts in all local markets. Many of these same large firms are multi-product and/or multi-service oriented. Some also operate in the international market.

Small firms (as has been defined by SBA's size standard for dredging) operate on a local or at most a restricted regional basis. For example, small dredging firms located in the Southeastern states are not able to compete with dredging firms in other markets such as the Great Lakes or Pacific areas, and small firms in these other areas do not compete with the dredging firms in the Southeastern states. The principal reasons that small dredging firms do not have the mobility to move from one local market to another is their limited capital and resources to move dredging equipment long distances between markets, or to have dredging equipment located in several markets. Another major reason, with respect to dredging firms in the Southeastern states, is that the physical characteristics of the waterways along the Southeastern coastal areas are different than in other markets or regions of the United States and require specially designed dredging equipment to adequately and effectively perform the dredging work.

The Corps of Engineers recognizes this unique situation in the Southeastern states as compared with the rest of the United States. Based on data available on set-aside contracts, the average size of small business set-aside contracts for the Southeastern area was $425,000 as compared with $242,000 for the rest of the United States in 1982.

When examining the competition in the dredging industry, size standard consideration must be given to the nature of this competitive market which is local or at most regional for small firms. If the local and regional market is not considered, then the results in establishing a size standard will be inadequate and not representative of the real market variables which exist in the dredging industry.

Reasons Why A Petition to SBA from the "Dredging Industry Size Standards Committee" Should Be Rejected

The so called "Dredging Industry Size Standards Committee" (hereinafter referred to as the "Committee") was organized in 1979 on an "ad hoc" basis. Although the criteria established for participation on the "Committee" has never been revealed to us, many dredging firms (our own included) hoped that it would be a positive factor in encouraging SBA to establish a reasonable dredging size standard that was representative of the desires of most small dredging firms in the industry. However, since its creation, it has become clear that this "Committee" of seven large dredging firms and only 15 small dredging firms was concerned with its group's self interests at the expense of the rest of the dredging industry.

When the "Committee's" law firm submitted a petition to SBA in 1979 its recommendation to set a lower size standard was challenged by members of the small dredging industry who believed that they had been arbitrarily denied an opportunity to participate in the deliberations which led to the promulgation of the petition.

Ironically, the arguments set forth in that petition are no longer valid since they address an outdated SBA policy with respect to setting size standards. A limited critique of the petition follows.

Structure of "Committee" Membership

Although the petition states the "Committee" is made up of seven large firms and 15 small firms, they are not identified in the petition. It does give the average annual gross receipts of its small dredging firms -- less than $3.5 million annually, but, curiously, no figures of average annual gross receipts are given for the seven large members.

We are unable to understand why seven large dredging firms are members of this "Committee" other than their interest in constricting small dredging companies to a size which will make them incapable of competing in any market.

Petition's Rationale No Longer Valid

The rationale upon which the "Committee" bases its arguments has now become a moot question since the SBA has presented, in its recent May 6, 1983 Proposed Rule, a completely different policy and philosophical base for setting size standards in the procurement set-aside program.

The "Committee" states at the beginning of its Petition that SBA has not established a size standard as low as reasonably possible (as its regulations presently require) in order to serve the truly small and struggling firms within the industry. The "Committee's" reference to SBA's policy is found in the currently operative Size Standard Regulations. However, the Proposed Rule on size standards published on May 6, 1983, has changed this policy.

Proposed policy now states that:

> "...the size of the firm eligible to bid on procurements set-aside for exclusive small business bidding is of great concern for the Government's procuring agencies, especially, the Department of Defense. Since prime purposes of procurement assistance programs are to assure continuation and availability of competition, and to expand the mobilization base, standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process ..." (emphasis added)

The SBA Proposal further states:

> "...SBA has a strong interest in facilitating the administration of the small business set-aside program, and has therefore sought to minimize disruption to this program..."

The recently stated SBA Policy is particularly applicable to the dredging industry, since a significant volume of contracts are awarded under the small business set-aside program for dredging of coastal waterways and harbors which are of vital concern to our National Defense. The "Committee's" basic rationale is no longer valid nor is it applicable to SBA's Proposed Rule as published in the Federal Register on May 6, 1983.

Limitations of Two Studies on Dredging Industry

The "Committee" Petition referred to two Government Reports (National Dredging Study, 1974, and Gurnee Report, 1975) on the dredging industry. Each report concluded that the size standard should be below $5.0 million.

These reports, almost ten years old, carry little weight in 1983. Many changes have occurred in the economy which affect the dredging industry, and significantly new factors have emerged within the dredging industry to impact on operating costs. Additionally, a criticism was made of the Gurnee Report because the survey response was inadequate and incomplete to properly analyze the industry's size structure and activity. These two studies neither reflect the current period nor should they be used as significant sources for determining the SBA size standard for the dredging industry.

SBA's Size Standard for Dredging Industry Defines Small Firms on the Same Basis as for Other Industries

The "Committee" Petition stated that the SBA size standard for dredging was too high because it included so called "medium size" firms as small. It should be pointed out first, that SBA does not define "medium size" firms. It only distinguishes between large and small firms.

Other construction industries (as well as other types of industries) include small firms of a size that the "Committee" would consider "medium size". In Division C-Construction, the industries that include small firms the "Committee" would consider "medium size" are: SIC 1521, General Contractors, Single Family Homes; SIC 1611 Highway and Street Construction, except Elevated Highways; SIC 1622.Bridge.Tunnel and Elevated Highway Construction

Review of Set-Aside Awards Based on Erroneous Assumption of Competitive Market

The "Committee" analyzed small business set-aside contract awards on a national basis. While SBA's size standards are based in large part on a national basis, important considerations are given to other economic factors, such as the market characteristics of the product or service involved and the particular markets where small firms are located. This major economic consideration was completely ignored by the "Committee".

The competitive market for small dredging companies is a local or, at best, a restricted regional phenomenon. Lacking the mobility afforded large national/international companies, small dredging companies must be equipped to respond to local/restricted regional needs. Small dredging companies have invested heavily in plant and equipment in order to meet the small business set-asides currently required in their area to satisfy dredging requirements of the Corps of Engineers. If these companies are frozen out of the existing market through the setting of an arbitrarily low size standard they will have been punished for responding to the Corps' needs. Such an action would be devastating. Should this occur small dredging companies in the Southeastern region will be adversely affected. Some may be unable to survive. They will be faced with two alternatives. One is to significantly reduce their productive size below that which prevailed in 1975. This will result in unacceptably low profits or operating losses. The second alternative is to remain above the size standard presently recommended and compete exclusively with the largest firms in the industry for unrestricted contracts. But as was previously pointed out small dredging companies do not have the mobility to bid for contracts beyond their region as do the large national/international companies. They would be caught in a "Catch 22", the result of which would be bankruptcy or the sale of their companies to the large concerns. We believe that neither of these alternatives is acceptable to SBA, the Corps', or to the general public.

Number of Firms Added to Small Business if Size Standard is Increased

Because of the difficulty of getting sales data and a precise "fix" on the total number of dredging companies, one can only approximate the number of companies presently classified as "large" which would be reclassified as "small" if our recommendation for a $21.5 million standard is adopted. Based upon present federal procurement data it appears that two companies would be so affected. One of these has just exceeded the $9.5 million threshold. The other operates on a regional basis in a separate region. It is apparent that the impact will be minimal.

Summary and Recommendation

The small business sector of the dredging industry has been negatively impacted by inflation and environmental regulations. It requires a size standard sufficient to compensate for changes which have occurred since 1975 and to meet national security requirements.

All but one industrial grouping of Division C-Construction have been recommended for an upward adjustment inflation factor of 181%. The singular exception is the small dredging industry, notwithstanding the fact that it has been more negatively impacted than others in Division C.

We submit that the adoption of Proposed Rule 13 CFR Part 121 would be both arbitrary and unfair for reasons cited in this letter.

On behalf of members of the Southeastern Dredge Owners Association and small dredging companies throughout the United States we urge the Small Business Administration to adjust upward the Proposed Dredging Size Standard, reject the recommendation of the so-called "Dredging Industry Size Standards Committee," and adopt a size standard of $21.5 million in accordance with the formula we recommend.

We respectfully request an opportunity to meet with you at your earliest convenience to personally discuss this matter.

Sincerely,

SOUTHEASTERN DREDGE OWNERS ASSOCIATION

William S. Hull
William S. Hull, President

WSH/mw

CC: Andrew A. Canellas

P.S. In view of a very serious development which has just come to my attention, it is extremely important that I meet with you as soon as possible. WSH

SOUTHERN DREDGING CO., INC.
MAIL ADDRESS: POST OFFICE BOX 31899 · CHARLESTON, S.C. 29407

GENERAL OFFICES AND REPAIR YARD: 105 BRASWELL STREET, CHARLESTON, S.C. 29403

TELEPHONE: (803) 722-7500

June 22, 1983

Mr. Andrew A. Canellas
Director, Office of Industrial Analysis
Small Business Administration
1441 L Street, N.W., Room 500
Washington, D.C. 20416

Dear Mr. Canellas:

With reference to the proposed rule change of the size standard for Dredging published in the May 6, 1983 Federal Register as printed on page 20569, we wish to furnish the following comments.

A review of the proposed standard indicates that the dredging industry is the only group under the general heading of construction for which the size standard was not increased. All other construction classifications in the group were increased approximately 81%. This increase was to adjust for inflation since 1975 (use of the GNP deflator). The very fact that the standard was not increased for dredging is in effect a reduction of the present $9.5 million in terms of real dollars after considering the effects of inflation and increased environmental costs. To single out the small business dredging industry in this manner is inconsistent with the rationale as published in the Federal Register and is detrimental to the industry and to the set-aside program as intended by Congress.

Dredging is a highly capital and labor intensive industry, and has been subject to enormous energy cost increases due to fluctuating costs of crude oil. Since the mid 1970's, environmental regulations and workmen's compensation laws have contributed significantly to higher costs of doing business.

Southern Dredging Company operates two 18" hydraulic dredges, and since we are a relatively new company, we could probably continue to operate for some time to come and continue to be eligible to bid on set-aside work under the proposed $9.5 million standard. However, this would not be fair to other companies who have been in business for many years. Also, our ability to operate below a standard of $9.5 million would probably be short-lived based on previous experience with inflation and environmental factors contributing to the increased cost.

6/24

It is our belief that the dredging industry size standard should be calculated in the same manner as all the other construction industry, and the use of the GNP deflator should be applied to the $9.5 million standard, thereby increasing the standard to $17.2 million.

Thanking you for your cooperation, we remain

Very truly yours,

SOUTHERN DREDGING CO., INC.

H. George Dent, Jr.
H. George Dent, Jr.
President

HGD/efb

cc Senator Strom Thurmond
   Senator Ernest F. Hollings
   Congressman Thomas F. Hartnett

"CAROLINA" PHONE: 919-586-4456

Supermarine

LILES LANDSCAPING • LILES MATERIALS • DEEP SOUTH SUPPLY & ENG. (AQ. DIV.)
WICCA ENGINEERING (INDUSTRIAL & AUTO. ENGINES)

The Liles Corporation

CH. BD.
John R. Liles 111

BOX 87A
LITTLETON, N. C. 27850

May 25, 1983

Mr. Andrew Conellas
Chief, Size Standard Division
Small Business Administration
1441 L. Street N.W.
Washington, D.C. 20416

Re: Dredging Size Standards

Dear Mr. Conellas:

I was completely dismayed when I was recently notified that the proposal for the size standard was left at 9.5 million. It is rather apparent that there is complacency in government as well as public officials.

We see a truck and think of it only as a truck. We do not consider the commercial relationship of the vehicle. On the other hand, we see a ship or a destroyer and we do not consider the commercial

II

significance of the ship nor the defence significance of the destroyer. It is all taken for granted.

Furthermore, the supporting aspect of dredging to the sea going trade and defence of this country is not taken as serious as need be. Yes, gentlemen, I deeply feel that there is too much complacency when it comes to the dredging industry. The dredging industry maintains and builds the highways of the water - channels - and the water ways leading areas -- the harbors. It goes without saying that without the service provided by the dredging industry that quite a bit of commerce and industry would be at a loss plus a very important sector of defense in this country.

The small sector of the dredging industry is important also.

The small dredgers are the spawning ground of the dredging Industry's future .. and it needs protection. The proposed 9.5 million set-aside limit and the past 9.5 million set a side limit has only built a security blanket for a few medium size companies to control and dominate the trade on the East coast. There is no competition! Under the 9.5 million limit, a climate prevails in which the small dredges cannot exist due to non competitive conditions. Only a few years ago some of the top personnel in both the Norfolk District of the Corps of Engineers and the Baltimore District were wishing my firm well... for they needed my firm for competitive reasons; a close study of the bid results in these two districts will explain why.

In my opinion, the set-aside limit should be lowered to around 3.0 million and the large harbor jobs should be taken off the set-aside program and put on the open market. The small companies could then compete more evenly for the small jobs which they have the mobility and capability of performing.

IV

It has been my understanding for many years that the S.B.A. was created to protect the small business man and to generate competitive conditions in business.

It is my belief that the proposed 9.5 million set aside limit will further promote the protective umbrella of a very few medium size companies in the dredging trade. It will not promote a supply or influx of new companies coming into the industry due to a dominance of the trade by a limited number of dredging firms.

With best regards,
I remain,

Sincerely,
John R. Liles III

C.C.
Senator Jesse Helms

~~MARSH~~ BUGGIES MARSH DRAGLINES PONTOONS SWAMP BUGGIES

Tassin's Amphibious EQUIPMENT CORP.

PHONES — OFFICE: 347-4555 — NIGHTS: 347-4555 · 341-4144
WESTBANK EXPRESSWAY
P. O. BOX 356
WESTWEGO, LOUISIANA

July 6, 1983

RECEIVED
JUL 12 11 52 AM '83
OFFICE OF THE ADMINISTRATOR

Hon. James C. Sanders
Administrator
Small Business Administration
1441 L. Street N.W.
Washington, D.C. 20416

Dear Sir:

On July 28, 1982, I wrote on behalf of my Company to object to the Small Business Administration's proposed standard of 9.5 million gross annual receipts per year. It is in our estimation that the standard is too high to be of any significant help to entry level firms such as Tassin's.

We at Tassin's employ approximately 60 employees and have an annual gross receipts of 3.0 million. The proposed 9.5 million standard allows only the largest firms in the Dredging Industry to compete for contracts set aside by the Small Business Administration.

As a result, those contracts or most of them end up going to medium sized firms which could compete successfully without any assistance from the S.B.A. whatsoever.

Again, we urge you to adopt a lower standard of around 3.0 to 4.0 million gross annual receipts per year; in order that the truly small businesses would have a fair chance to bid S.B.A. contracts and as a result would be able to survive and grow.

Sincerely,

James A. Tassin
President

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C.C.
dp/JAT

WESTERN CONTRACTING CORPORATION
400 BENSON BUILDING
SIOUX CITY, IOWA 51101

July 21, 1982

Mr. Andrew Canellas
Director of Industry Analysis
Small Business Administration
1441 L. Street, N.W.
Room 500
Washington, D.C. 20416

Re: Small Business Size Standard
(FIC 1629)

Dear Mr. Canellas:

We have read the Federal Register of May 3, 1982, publishing the SBA's second notice of proposed rulemaking. In particular, I have reviewed carefully the general overall approach the SBA has taken with regard to the small business size standards, and wish to take this opportunity to commend your office, and the SBA, for bringing some sense to the SBA's programs. My Company, Western Contracting Corporation, is not and should not ever be considered a small business. We often subcontract to small firms, and based upon this interface, and of 40 years exposure to the dredging business, I believe that our view as to a sensibly implemented program should be of use to the SBA.

For a number of years, the small business size standard for dredging has been $9.5 million. As a result of this size standard, a small number of firms at the upper end of the spectrum have done quite well. These same firms, which stand in a class that is vastly more sophisticated than the smaller firms, historically have competed well in all sizes of contracts, whether award was made on an unrestricted basis or as a set-aside. At the same time, over the years I have seen a substantial number of much smaller dredging firms that could not break into the set-aside business dominated by these few larger firms, go out of business.

The SBA's present focus on smaller firms undoubtedly will do much to strengthen the small business community. The proposal, however, to continue with $9.5 million for dredging is not in line with that focus. Certainly, it is a vast improvement over the 1,000 employees proposal made under the Carter administration. Firms that make over $5 million are fully capable of competing with any other firm that owns similar dredging equipment. Therefore, no purpose is served by excluding other firms from competition.

As recognized in the SBA's May 3 publication, the present budgetary restraints call for narrowing the SBA's clientele more precisely to those smaller firms that need assistance. I, therefore, hope and trust that the SBA officials responsible for evaluating size standards will study carefully the composition of the dredging industry, because I know of no other way that you can acquire an appreciation for the large number of small firms that gross less than $5 million. These firms are in legitimate need of SBA assistance, but cannot get it through the SBA program, either in competition with the substantially larger firms, or through subcontracts, or through small business subcontract requirements which apply to large businesses.

Thank you for this opportunity to provide you with our views on your difficult task.

Very truly yours,

L Garland Everist

L. Garland Everist

LGE:lh

cc: The Honorable Neal Smith
The Honorable Berkley Bedell
The Honorable Roger W. Jepsen
The Honorable Charles E. Grassley

"[illegible]

Ports O' Call

ESTERN-PACIFIC DREDGING CO.
DIVISION OF RIEDEL INTERNATIONAL, INC.

CORPORATE OFFICE
4555 N. Channel Ave.

MAILING ADDRESS
P.O. Box 3320

Portland, OR 97208
Phone: (503) 285-9111 • Telex: 151372

August 2, 1982

EXPRESS MAIL

Mr. Andrew A. Canallas
Director, Office of Industry Analysis
Small Business Administration
1441 L Street N.W., Room 500
Washington D.C.

RE: Small Business Size Standards for the Dredging Industry

Dear Mr. Canallas:

This letter is in response to the advance notice of proposed rulemaking published in the May 3, 1982 edition of the Federal Register. Specifically, it is to provide our views and recommendations on the proposal to establish new size standards for the small business set-aside program in the dredging industry.

Our review and assessment of the dredging industry on the West Coast indicates a significant number of small companies with an annual volume in the range of 2 to 3 million dollars. Such firms are the truly "small" businesses in the industry which merit protective measures against competition from larger dredging companies. However, such competition comes primarily from "medium-sized" firms, those with annual receipts in excess of 3 million dollars but less than the current 9.5 million dollar size standard. As a result of this competition from the "medium-sized" segment of the industry, the range of opportunity for "small" business is seriously limited and those firms which were intended to be assisted by the Small Business Administration are not the beneficiaries of any substantial help.

The National Dredging Study of several years ago authorized by and submitted to Congress substantiates this position. Conducted by the Arthur D. Little Company, this study included recommendation that the SBA size standard be reduced to 2 to 3 million dollars. It does not appear that any significant consideration has been given to date on this aspect of the study by the Small Business Administration.

All indications forthcoming from the Reagan Administration appear to clearly support the approach recommended herein and advocated by the above-mentioned study. Any action to make further upward revision of the size standard for

"Helping Build the [illegible]

ENVIRONMENTAL EMERGENCY SERVICES CO.
WILLAMETTE WESTERN CO.
WILLAMETTE TUG & BARGE CO.
WESTERN MARINE BRAZIL
WESTERN-PACIFIC CONSTRUCTION MATERIALS CO.
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WESTERN-PACIFIC DRILLING CO.
WESTERN-PACIFIC ERECTORS CO.
WESTERN-PACIFIC FOUNDATIONS CO.
WESTERN-PACIFIC MARINE SERVICES CO.
WESTERN TUG & BARGE CO.
WORLD SECURITY SERVICES CO.

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dredging would further impact on the capability of the small dredging contractor to compete for available work and, more appropriately, a reduction of the standard to a level in the range of 3 million dollars would accomplish the stated objectives of the Administration and be consistent with the findings of the comprehensive study made by the Arthur D. Little Company.

Thank you for the opportunity to input our views regarding the set-aside program in the dredging industry. We would be pleased to provide you with any information available to us which may assist in establishing an equitable and appropriate size standard which will insure that small business firms in the dredging industry are able to compete for their appropriate share of the market.

Sincerely yours,

WESTERN PACIFIC DREDGING CO.
A Division of Riedel International, Inc.

R W Lofgren
Robert W. Lofgren
President

RWL:el

CARL S. HAKENJOS
Vice President

Williams-McWilliams Co., Inc.

June 23, 1983

Mr. Andrew Canellas, Chief
Size Standards Division
Small Business Administration
1441 L Street, N.W.
Washington, D. C. 20416

Re: Small Business Size Standards
for Dredging

Dear Mr. Canellas:

The purpose of this letter is to comment on the SBA's recent proposal, published in the Federal Register on May 6, 1983. In this proposal it is recommended that the present size standard for dredging remain at $9.5 Million, which it has been for years. We are still of the opinion that this standard is far too high to protect the small business man as it should do and care to express our views on this matter.

Williams-McWilliams, which has been in the dredging business for 57 years, exceeds $9.5 Million and therefore does not and "should not" qualify as a small business. We do however perform dredging work throughout the U. S. on behalf of the U. S. Corps of Engineers and other State and Federal agencies, and are therefore in a position to share with the SBA our observations concerning the affect $9.5 Million size standard has had on the dredging industry as a whole. For as long as I can remember, a small business set-aside program has served to the benefit of only a few firms that are near the $9.5 Million gross annual receipts mark. In Louisiana alone there are tremendous numbers of dredging firms (fledgling long existing firms) in the dredging business that gross no greater than an average $3-$4 Million annually. The firms that gross in excess of this amount utilize equipment and procedures that are fully competitive with all other firms in the industry. The smaller firms I allude to, therefore, cannot compete either with firms such as Williams-McWilliams, or with the firms grossing an average of $6-$10 Million.

What disturbs me a great deal about the proposed size standard of $9.5 Million is the fact that those much larger

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[illegible]

a ZAPATA company

firms that dominate the set-aside program are fully competitive with Williams-McWilliams and with all the other large dredging firms. What I mean by this is that, as to any project appropriate for the equipment owned by these "small" firms, these firms are competitively equal to any firm in the industry. Therefore, it makes no sense to include these firms in a program that was obviously intended for firms small enough to be at an actual disadvantage competitively in relation to other larger firms.

Also, in the proposed regulations, it appears to me that SBA's explanation of its proposed rule gives favortism to the wishes of procuring agencies and not small business firms. I refer to Fed. Reg./Vol. 48 No. 89/Friday, May 6, 1983; 20560:

> "The size of firm eligible to bid on procurements set aside for exclusive small business bidding is of great concern for the Government's procuring agencies, especially the Department of Defense. Since prime purposes of procurement assistance programs are to assure continuation and availability of competition, and to expand the mobilization base, standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process. This proposal is intended to address that concern by not lowering any size standards, and increasing others."

The Small Business Act was intended to allow small businesses to compete for government contracts against firms their own size, not against medium and large businesses, thereby strengthening these firms. It appears here that the SBA is not as much concerned for the survival of small businesses as it is for the promotion of government agencies' procurement objectives. The ultimate purpose of the program is to "assure competition and availability of competition, and to expand the mobilization base", but this does not mean that a program intended for entry level firms should be expanded by increasing size standards to include firms with "sophistication in the procurement process". By focusing on firms with such sophistication the SBA quite naturally would allow an agency to by-pass smaller firms which also are under the size standard. Firms with "sophistication in the procurement process" are certainly far less in need of restricted competition than smaller firms. Unless the set-aside program is administered so as to allow truly small firms to acquire that sophistication, the SBA will have then abdicated its function and will have abused its discretion under the Small Business Act. The sole beneficiaries of all small business programs, by definition, should be small business, and not the procuring agencies.

Another concern is the SBA's explanation of the proposed rule that the procurement program would be disadvantaged if the size standards are not high enough to attract competent bidders. 48 Fed. Reg. 20561. This statement could never justify a $9.5 Million dredge size standard. It is certainly a known fact that there are numerous competent existing small dredging firms that can provide the Corps with both competition and experienced service if the size standard is established at $5 Million. Such a standard would exclude the few medium-sized firms that now dominate the set-aside program in the dredging industry. Many smaller, entry level firms would come into being and thereby add to the existing mobilization base if the size standard were set at $5 Million. Under the current $9.5 Million standard, however, just the opposite has occurred. Many small (below $5 Million gross) dredging firms have gone out of business in the last two decades, thereby actually diminishing the nation's mobilization base. In fact, we understand that at least three small firms that have petitioned the SBA to lower its size standard for dredging have since gone out of business. In contrast, no dredging firms grossing more than $5 Million annually can be identified as having gone out of business.

The SBA's proposed regulations also explain that in those industries in which the standard is to be raised, there may be a small risk that newly eligible (bigger) firms may take contracts away from smaller firms. The SBA justifies this result by saying that only those small firms that have become overly dependent on SBA aid would be adversely affected. 48 Fed. Reg. 20565. However, in the dredging industry, it has never been the case that small firms have become overly dependent on the SBA; indeed, the $9.5 Million standard effectively has placed the set-aside program out of their reach. In the dredging industry, it is the medium-sized firms that have become overly dependent on SBA assistance (urging a higher standard as their businesses have grown) and they will remain dependent, unless the standard is lowered to a reasonable level that more realistically will approximate the size of the truly small firms in the industry.

Also, there appears to be a concern for the SBA to have an administrative need to protect the procurement objectives of agencies like the Corps. The Defense Acquisition Regulation (DAR) already adequately protects the Corps' interest by vesting authority in a Contracting Officer to decide to award a project on an unrestricted basis because small business plant and equipment are not sufficient to perform the job. I reiterate, that it is the specific mandate of the SBA to set a size standard that is focused upon the small business needs of a particular industry, not for a particular procuring agency.

Having been in this profession for thirty-three years I am very conscious of and close to the needs of both the small and large firms in this industry. For the various factors I have referred to above, I believe that an appropriate size for the dredging industry SBA size standard should not exceed $5 Million. If the SBA sincerely intends to establish size standard consistent with its focus on small firms, I am confident you will determine an appropriate measure somewhere between $3-$5 Million. As an industry, we cannot help the SBA to decide where in that spectrum the new appropriate level exists. We can, however, provide whatever information the SBA would like from us in the way of procurement data, and would welcome the opportunity to do this.

Yours very truly,

WILLIAMS-McWILLIAMS CO., INC.

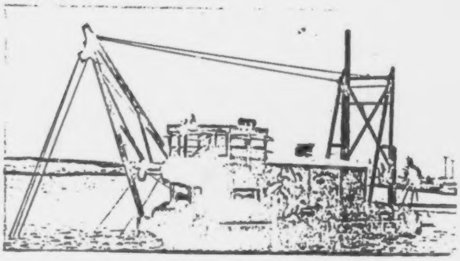
C. B. Hakenjos

C. B. Hakenjos
Vice President

CBH:mrg

Wroten Dredging Co.
DREDGING - PILE DRIVING
WATERFRONT IMPROVEMENT
CHARLES M. WROTEN, JR.
OWNER

NORTH P.O., Mathews Co., VA.
BOX 128 PHONE 725-3567



June 29, 1983

The Honorable James C. Sanders
Administrator, Small Business Administration
1441 L Street, N. W.
Washington, D. C. 20416

Dear Mr. Sanders:

I am aware of the Proposed Rule change to the SBA Regulations where the size standard for dredging is $9.5m for a 3 year average.

This standard is long over-due for a change and I hope that it will go higher to keep up with inflation. My competition is in Virginia and too low a standard may encourage false hope for the smaller companies to come into the area. I have witnessed the rise and fall of 2 companies who thought they could use SBA but it was their lack of dredging experience which caused their failures.

A higher standard would help ensure the competition that now exists and at the same time help me to grow stronger which of course helps the Government complete its work and also serves the general public.

Sincerely,

WROTEN DREDGING COMPANY

Charles M. Wroten, Jr.

CMW,Jr:wh

CC: ✓ Mr. Andrew Canellas
Director, Size Standards

7/6 Senator John Warner
Senator Paul Trible
Congressman Herbert H. Bateman
[illegible] Congressman Norman Sissisky

July 14, 1983

Mr. Charles M. Wroten, Jr.
Box 128
P.O. Box 42 - North P.O.
Mathews Co., Virginia 23128

Dear Mr. Wroten:

This is in response to your letter of June 29, 1983, to the Small Business Administration, in which you state a preference for a higher size standard in the dredging industry than the presently proposed $9.5 million in gross receipts.

The dredging industry traditionally has been one of the most controversial standards which the SBA has attempted to administer. The SBA has received many public comments over time on this size standard and this pattern has continued with the last Advance Notice of Proposed Rulemaking in which we received 29 public responses. Of these 29 responses, a clear majority (23 respondents) desired lower standards, three desired the present standard of $9.5 million, and three respondents proposed higher standards. However, the lowering of a size standard in response to this public response was seen as a difficult decision in light of inflationary trends and the fact that dollar-based size standards in the notice are being raised for most other industries.

After consultation with the Corps of Engineers concerning its perceived needs, we felt that there was not enough evidence at that time to propose changing the size standard from the present $9.5 million. The SBA has, however, set up a task force in consultation with the Corps of Engineers to investigate this industry by sending questionnaires to the various dredging firms. In this way we hope to improve the information on this industry and perhaps come up with an improved size standard.

We hope that this information will meet your needs. If we may be of additional assistance, please do not hesitate to contact us.

Sincerely,

/s/ Andrew A. Canellas

Andrew A. Canellas
Director
Size Standards Staff

SS/CA/RMRay:jp 7-13-83 653-6373
Control No. 116181 - Due Date 7-21-83
cc:
PS - 1043 CLA - 1024 SSS Read - 500
A - 1046 SSS Subj - 500

SIZE STANDARDS

WEDNESDAY, OCTOBER 26, 1983

House of Representatives, Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems, Committee on Small Business,

Washington, D.C.

The subcommittee met, pursuant to notice, at 10:30 a.m., in room 2359-B, Rayburn House Office Building, Hon. Joseph P. Addabbo (acting chairman of the subcommittee) presiding.

OPENING STATEMENT OF ACTING CHAIRMAN ADDABBO

Mr. Addabbo [presiding]. Come to order. Today we conclude hearings on the Small Business Administration's proposed size standards.

On October 20, 1983, we began these hearings with testimony presented by officials of the Small Business Administration and by representatives of certain industries which have been identified as presenting unique size standards considerations. Specifically, we heard from witnesses regarding the dredging, construction, and the architectural and engineering industries.

During that first day of testimony, information was obtained concerning the history of SBA's effort to revise its size standards and the rationale supporting its latest publication which appeared in the Federal Register on May 6, 1983. The testimony we received from witnesses claiming that the industries they represented were unique was both interesting and informative.

We shall continue this investigation today with testimony from the wholesale industry, and the architecture, tobacco, and textile manufacturing industries.

I want to begin by thanking all of our witnesses for their time, effort, and desire to participate in this hearing.

OPENING STATEMENT OF HON. HAL DAUB, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. Daub. Thank you for being here this morning. We appreciate it very much. I want to tell each of you that I look forward to your testimony. For the record, my name is Mr. Hal Daub. I am a Member of Congress from Omaha, Nebr. I want to welcome all of the witnesses who are scheduled to appear today. It is a pleasure to be here again, for I did enjoy the first in this series of two hearings on the proposed Small Business Administration's size standards.

As I mentioned in my opening statement last week, I think it is very important that the agency adopt fair and equitable size standards for every industry. We got some very good suggestions from last week's witnesses. I look forward to hearing more today.

I am joined on the minority side, Mr. Chairman, by my colleague Sherwood Boehlert of New York, who may have remarks that he wishes to enter. I would like, without objection, to ask unanimous consent that a letter from a firm within my second congressional district, the firm of Henningson, Durham & Richardson, Inc., and from its president, Robert F. Krohn with respect to size standards for architect and engineering firms be included in the record.

Mr. **Addabbo.** Without objection, it is so ordered.

[The letter of Henningson, Durham & Richardson follows:]

Henningson, Durham & Richardson,
Omaha, Nebr., October 17, 1983.

Hon. Hal Daub,
House of Representatives,
Washington, D.C.

Dear Congressman: Once again I am writing to reiterate our position on the various regulations to be heard by you relating to Small Business. I will be very brief and state unequivocally, up front, that I am in support of helping small business, but I am also unequivocally opposed to businesses, other than small business, getting an undue, unfair advantage in the normal day-to-day commercial world. I think the categories of small businesses in the architectural field have been extremely misstated in the past and are being very vocal in their efforts to continue a bad situation.

I urge the Congress and the government to change the limitation on architects and engineers to the range normally associated with a small business. In this area, I think any amount over $2-million per year in annual fees makes the firm highly suspect as to whether it is a small business. This volume would permit a staff of 30 people, which is considerably over the typical "small" a/e firm.

Many firms that have 20-30 people compete very effectively against us because they come at major projects from a very specialized basis. Most of our competition comes from firms having 50-100 people. This size firm would typically have anywhere from $3-million to $7-million in fees. I think it is extremely unfair, perhaps even unconstitutional, to set-aside government business for this group at the exclusion of their normal competitors.

I hope you will understand our position and that this letter, together with our past correspondence, hopefully will help resolve an unfair situation and return our profession to something on a more equitable basis.

Thank you for your attention and cooperation.

Sincerely,

Robert F. Krohn, *President.*

Mr. **Daub.** Thank you, Mr. Chairman.

Mr. **Addabbo.** Out first witness is our esteemed colleague from South Carolina, Mr. Thomas F. Hartnett.

TESTIMONY OF HON. THOMAS F. HARTNETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. **Hartnett.** Good morning. I know that you have a caucus that you probably prefer to be at, Mr. Chairman. I certainly appreciate your being here. I will trespass on as little of the committee's time as possible. I will attempt to be brief.

Mr. Chairman, I do appreciate the opportunity to testify at this committee hearing. In 1975, the Small Business Administration reviewed the existing size standards and proposed raising the dredging industry's size standard from a figure of $5 million to $9.5 million. There was virtually no opposition to this proposal and subsequently the revised size standard of $9.5 million was adopted that same year.

The recent proposal by the SBA would raise the size standard for all construction industries with the one exception of the dredging industry by 80 percent. I fail to understand the logic behind such a proposal. Does the SBA truly believe that the dredging industry is exempt from the effects of inflation here? How can it possibly be then considered fair to single out the dredging industry and require them to operate under 1975 dollar volume size standards.

I am told that a Dredging Industry Size Standards Committee requested the SBA to lower the dredging industry size standard. It is my understanding that this committee is composed of 15 small and 7 large dredging companies, however, no other information is known about this committee, including the names of the involved companies. Although, I am informed that such information will be furnished to this committee, but this Dredging Industry Size Committee is not representative of the National Association of Dredging Contractors, nor of the Southeastern Dredge Owners Association. I am fearful that this dredging committee may have other motives than those stated in their petition which was filed with the SBA in 1979.

I have requested from the SBA their reasoning and justification for recommending an 80-percent inflation adjustment increase to all of the 27 industries in SIC Division C-Construction while, at the same time, refusing to recommend this same adjustment to the dredging industry. This is refusing to recommend even a 1 percent adjustment to the dredging industry. The SBA has not been able to justify this action to me in any way whatsoever, except to inform me that there is opposition within the dredging industry itself.

Mr. Chairman, I feel that it is the Size Standards Committee's job with the SBA to set this standard, not based upon what the industry itself wants, but based on inflationary factors and other figures which should be used to consider what a small business is.

Mr. Chairman, the dredging industry is unique to other industries in that there tends to be more large and small companies and only a few middle size companies in comparison to other construction industries.

As dredging is a highly capital intensive industry, the minimum amount of capital needed to perform even the smallest Federal dredging contracts is at least $1 million. The largest or larger dredging operations require many millions of dollars.

Like many of you on this committee, I am trying to encourage growth and expansion in small business. To do this, we must give them the opportunity to obtain the revenue that's necessary to finance their operations. Limiting the size standard to 1975 dollar values would drive the small, privately owned companies out of business as they would have no capital to reinvest in the equipment necessary to compare with the large companies.

The Dredging Size Committee claims that a dredging company that grosses $9.5 million should be considered a middle-size company. Given the fact that the next higher level of competition includes companies doing millions of dollars in business, I hardly call a company which grosses $9.5 million middle-sized.

Some individuals state that if we maintain or reduce the dredging size standard, more small companies will be able to compete for set-aside business. All small dredging companies are eligible to compete for set-aside business. Holding the present size standard will not result in more set-aside business for these small companies. Holding the percent size standard will not result in more set-aside business for the small companies, but this will insure more business for the larger companies in the long run.

Small companies need the capital which will allow them to grow. There will be less set-aside contracts if the size standards are not raised to reflect the past decade of inflation.

The only area of the Nation where there is still a successful set-aside program in the dredging industry is in the Southeast.

The characteristics of our waterways along the southeastern coast require specifically designed dredging equipment to perform the work. This equipment requires larger capital investments by companies operating in the Southeast, which means these companies must earn higher gross revenues in order to be competitive. The type of projects available under the set-aside program in the Southeast cannot be completed by extremely small firms.

If the dredging industry qualified for an inflationary adjustment in 1975, there is no reason why they should not qualify today. SBA's own stated intent, as published in the Federal Register, is to give the size standards a real value equivalent to that which existed in 1975. Firms have been losing SBA eligibility due to inflation and an inflation adjustment will help to remedy this.

Gentlemen, if we do not grant some relief to the dredging industry, then we are in fact saying that every citizen, every local government, and every other businessman has been seriously affected by inflation with the sole exception of the dredging industry. We know this is just not so.

Mr. Chairman, I am confident that the members of this committee realize also that this is just not so.

I thank you for giving me the opportunity, Mr. Chairman, to present this statement. If there are any questions from the committee, I will be glad to attempt to answer them.

[Congressman Hartnett's prepared statement follows:]

PREPARED STATEMENT OF HON. THOMAS F. HARTNETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. Chairman and Members of the Committee. I appreciate having the opportunity to testify on the Small Business Administration's (SBA) proposed small business size standards as published in the Federal Register on May 6, 1983.

In 1975, SBA reviewed and analyzed the existing size standards and proposed raising the dredging industry's size standard from $5 Million to $9.5 Million. There was virtually no opposition to this proposal and subsequently the revised size standard of $9.5 Million was adopted that same year.

The recent proposal by the SBA would raise the size standard for all construction industries with the one exception of the dredging industry by 80 percent. I fail to understand the logic behind such a proposal. Does the SBA truly believe the dredging industry is exempt from the effects of inflation? How can it possibly be considered fair to single out the dredging industry and require them to operate under the 1975 dollar-volume size standard?

I am told that a "Dredging Industry Size Standards Committee" requested the SBA to lower the dredging industry size standard. It is my understanding that this committee is composed of 15 small and 7 large dredging companies, however, no other information is known about this committee including the names of the involved companies. Although, I am informed that such information will be furnished to this Committee at the request of the Chairman. This Dredging Industry Size Standards Committee is not representative of the National Association of Dredging Contractors nor of the Southeastern Dredge Owners Association. I am fearful that this dredging committee may have other motives than those stated in their petition which was filed with the SBA in 1979.

I have requested from the SBA their reasoning and justification for recommending an 80 percent inflation adjustment increase to all of the 27 industries in SIC Division C-Construction while at the same time refusing to recommend this same adjustment to the dredging industry. The SBA has not been able to justify this action to me.

Mr. Chairman, the dredging industry is unique to other industries in that there tends to be more large and small companies and only a few middle size companies in comparison to other construction industries. As dredging is a highly capital intensive industry, the minimum amount of capital needed to perform even the smallest federal dredging contracts is at least $1 Million. The larger dredging operations require many millions of dollars. Like many of you on this Committee, I want to encourage growth and expansion in small business. To do so, we must give them the opportunity to obtain the revenue that is necessary to finance their operations. Limiting the size standard to 1975 dollar values would drive the small, privately owned companies out of business as they would have no capital to reinvest in the equipment necessary to compete with the large companies.

The Dredging Size Standards Committee claims that a dredging company that grosses $9.5 Million should be considered a "middle" size company. Given the fact that the next higher level of competition includes companies doing million of dollars in business, I hardly call a company which grosses $9.5 Million middle-sized.

Some individuals state that if we maintain or reduce the dredging size standard, more small companies will be able to compete for set-aside business. All small dredging companies are eligible to compete for set-aside business. Holding the present size standard will not result in more set-aside business for these small companies but will ensure more business for the larger companies. Small companies need the capital which will allow them to grow. There will be less set-aside contract if the size standards are not raised to reflect the past decade of inflation.

The only area of the nation where there is still a successful set-aside program in the dredging industry is in the Southeast. The characteristics of the waterways along the southeastern coast require specifically designed dredging equipment to perform the work. This equipment requires larger capital investments by companies operating in the Southeast which means these companies must earn higher gross revenues in order to be competitive. The type of projects available under the set-aside program in the Southeast cannot be completed by extremely small firms.

If the dredging industry qualified for an inflationary adjustment in 1975, there is no reason why they should not qualify today. SBA's own stated intent as published in the Federal Register is "to give the size standards a real value equivalent to that which existed in 1975...Firms have been losing SPA eligibility due to inflation and an inflation adjustment will help to remedy this".

Gentlemen, if we do not grant some relief to the dredging industry, then we are in fact saying that every citizen, every local government and every other businessman has been seriously affected by inflation with the sole exception of the dredging industry. We know this is just not so.

Mr. ADDABBO. Thank you very much for your most comprehensive statement and for your analysis of this. We will very carefully review it.

Mr. HARTNETT. Thank you, Mr. Chairman.

Mr. ADDABBO. Mr. Daub.

Mr. DAUB. Thank you, Mr. Chairman.

Now, my colleague, classmate, and good friend, you have very well set out arguments that were also, I want you to know, clearly on the minds of the Administrator of the Small Business Administration, Mr. Sanders, when he presented his testimony last week at the first of these two hearings.

Mr. HARTNETT. Yes.

Mr. DAUB. I would presume that this statement, if it hasn't gotten to the Administrator, should be delivered to him. This will reinforce their commitment to us to more carefully reevaluate their preliminary assessment that the particular industry size standards should not be changed for inflation.

I want to commend you for your interest in this particular area.

Mr. HARTNETT. Thank you.

Mr. DAUB. It took a good deal of our time last week in committee. The record will be useful to you, I think. I am interested on page 2 of your testimony where you said that you had not received an explanation. Have you received any contact at all from the Small Business Administration?

Mr. HARTNETT. I spoke to a Mr. Canellas, which I think his name is. I spoke at length with him by telephone. His explanation to me was that the only reason why they have gone ahead and approved all the other construction industries increase and not that of dredging is that there seems to be some question among the dredgers themselves.

Mr. DAUB. Yes.

Mr. HARTNETT. This is as to what should be the size standard.

Mr. DAUB. Yes.

Mr. HARTNETT. My answer to him at that time is the same point that I would raise to you, which is that this may be true, but certainly we can't deny the fact that there has been inflation. We may dispute the amount and the effect that inflation has had on the dredging industry, but for the Small Business Administration to hold them to zero inflationary increase, this is extremely unfair to me because no one can deny that there has been this situation.

One thing that I want to mention since you've given me this opportunity is that the dredging industry is extremely environmentally sensitive in that the environmentalists, and justifiably so, are greatly concerned about where the spoil is placed by dredgers. Sometimes jobs require extra miles of pipe.

Mr. DAUB. Yes.

Mr. HARTNETT. It's not just a few feet. It is to make sure that the environment is not adversely affected. All of these costs have to be incurred by these small dredgers. To do this, they have to have the capital to invest in these things. That is what I tried to point out in my statement. They have given no justification to me whatsoever for not granting some type of inflationary relief to the dredgers except to say that the dredgers themselves can't agree on what it should be.

Mr. Daub. Mr. Hartnett, that is an enlightening point that is not made in the record which this committee has as to size standards which have been worked on now for a number of years, as you know, and were a focus of the Small Business White House conference in 1980. We appreciate your thorough and obviously well-prepared information and for your presence and for your testimony today.

Mr. Hartnett. Thank you. Mr. Chairman, I thank you and the members of the committee.

Mr. Daub. Thank you.

Mr. Addabbo. Was there another question?

Mr. Boehlert. I want to thank you for an excellent statement. You make a case not for special consideration, but for equal consideration.

Mr. Hartnett. That's all that we are asking for, Mr. Boehlert.

Mr. Boehlert. Let me ask you this.

Mr. Hartnett. Yes.

Mr. Boehlert. The 15 small companies, the dredging companies, you have not been able to obtain the names of these companies?

Mr. Hartnett. Mr. Congressman, I have not personally. I am not sure that the SBA and the dredgers associations do not know the names of these companies, but I personally don't know the names of these companies.

Mr. Boehlert. One further question.

Mr. Hartnett. Yes.

Mr. Boehlert. On page 2 you talk about having at least $1 million as the minimum amount of capital needed for the smallest of dredging companies. What are we talking about in terms of the number of employees per company, that is, for a company of that size?

Mr. Hartnett. Probably somewhere between 35 and 50 people, I would say, depending, again, on the size. I would say 35 to 50 people. They would do gross sales of maybe $3 to $5 million in volume, I guess. You are talking about employing as much as 50 and a minimum of about 35.

Mr. Boehlert. Let me conclude by just saying that you are a very effective advocate.

Mr. Hartnett. Well, thank you.

Mr. Boehlert. Mr. Chairman, thank you.

Mr. Hartnett. Mr Chairman, thank you very much for your indulgence. I appreciate the time.

Mr. Addabbo. Thank you.

Mr. Hartnett. I appreciate it.

Mr. Addabbo. The next witness this morning is Bruce Patty, vice president of the American Institute of Architects.

You will be our next witness, Mr. Patty, if will please come forward.

Mr. Patty. Yes, sir.

Mr. Addabbo. Please proceed. We thank you for your time and attendance. In the interest of time, your entire statement will be made part of the record. We will ask you to summarize it for the committee.

TESTIMONY OF R. BRUCE PATTY, VICE PRESIDENT, AMERICAN INSTITUTE OF ARCHITECTS

Mr. PATTY. Thank you, sir. I certainly appreciate the opportunity of being here with you today. I want you to know that the American Institute of Architects values very much the interest of this committee in serving small business.

My name is Bruce Patty. I am principal in the architectural firm of Patty, Berkebile & Nelson Associates in Kansas City, Mo., and am one of their founders. I am here today representing the American Institute of Architects. I currently serve as vice president and will serve as the president of the national organization of 42,000 members in 1985.

It is certainly my privilege to appear before this subcommittee and address the issues that are of concern to small business. As you may know, our profession is composed primarily of small businesses. Each year we conduct a survey of our firms. Our most recent survey conducted in 1981 indicated that approximately 82.5 percent of our firms have fewer than 10 employees.

The 1977 economic census, the most current industrywide data available, indicates that approximately 96 percent of firms that provide architectural services fall within the current SBA size standard of $2 million in annual receipts. I would first like to address the general aspects of the procurement process and some of the problems faced by small architectural firms.

Firms maintain competitiveness by size and by specialization. It should be noted that only a small number of architects are needed to provide the design services for a very large project. Two or three architects working in conjunction with five or six draftspersons, and with engineering consultants, can design and coordinate a construction project in the $20 to $30 million range. Many small firms use consultants to add to their expertise. By grouping several small specialized firms, architects can produce a design team tailor-made to the particular project at the time.

Federal procurement regulations recognize the idiosyncracies of our industry and emphasize the qualifications of the individual members of the design team.

Size is considered only in determining the firm's ability to meet the production schedule, to determine general levels of overhead and to determine the levels of personal involvement by members of a firm.

In all fairness, some jobs demand the production and multidisciplinary capabilities that only large firms can offer.

Before I address the May 6 proposed SBA size standards, I would like to discuss the AIA's position on the selection of architects and engineers for Federal projects.

The AIA represents the architectural profession as a whole and cannot advocate positions which may promote the interests of one segment of the profession over another.

The AIA endorses and supports the selection of architects and engineers for Federal, State, and local governmental work on the basis of professional qualifications and competence. This selection process is mandated in Public Law 92-582, commonly referred to as the Brooks Act. The Brooks Act requires public announcement of all contract requirements, selection and ranking of the three most qualified firms and contract negotiations with the highest ranking of the three firms.

If the public owner cannot negotiate a satisfactory contract with this highest ranked firm, negotiations end and the agency undertakes negotiations with the second most qualified firm. Failing an agreement with the second ranked firm, the agency begins negotiations with the third most qualified firm.

Selecting architects on the basis of demonstrated qualifications and ability is in the best interest of the public.

A qualifications-based system of selecting the architectural services fosters an atmosphere of trust and confidence between the owner and the architect. The public and the profession are well served by insuring that the best architectural services are procured.

The current procurement of architectural and engineering services is based on the qualifications of the individuals in the project team.

Procurement experts knowledgable in architecture, engineering, and construction know these qualifications are more important than the size of a firm or its reputation.

The issue of set-asides is not an easy one for the AIA. We believe set-asides arbitrarily limit the competition of A/E firms and do not assist the genuinely small A/E firms.

The Brooks Act requirements allow for equal competition by small firms. Unrealistically high set-asides shield those Federal agencies unwilling to recognize the qualifications of small firms and the fine contributions such firms can make to design excellence in Federal construction.

Small firms, because of their production capabilities, are often best suited for small projects. The Brooks Act has been criticized for being administratively burdensome, particularly for projects small in scope. The law is very straightforward. The regulations and procedures for implementing the law need to be streamlined however, so small firms are not excluded from the procurement process.

The AIA would be happy to provide its expertise to this subcommittee for the purpose of examining these regulations in order to insure participation by small firms in the Federal procurement process.

In addition, the 6-percent fee limit on A/E projects is particularly detrimental to small firms and small jobs. The 6-percent limitation is not normally a problem on most large projects and adequate fees can be negotiated within the 6-percent limitation. For smaller jobs, however, a fair fee often exceeds the 6-percent limitation which then negates the ability of a Federal agency to contract the job out, at least to a small firm. This arbitrary fee structure precludes involvement in Federal projects by many small A/E firms.

Mr. Chairman, the rest of the testimony has been now entered into the record. In consideration of the committee's time, I'd like to pause at this time and see if you have any questions that I might be able to answer.

[Mr. Patty's prepared statement follows:]

PREPARED STATEMENT OF R. BRUCE PATTY, VICE PRESIDENT, AMERICAN INSTITUTE OF ARCHITECTS

Mr. Chairman, I am Bruce Patty, a practicing architect with the Kansas City firm of Patty Berkebile Nelson Associates, and I am here today representing The American Institute of Architects. I am presently Vice President of the Institute and will be President in 1985.

It is a privilege to appear before this Subcommittee and address an issue of concern to small businesses. As you may know, our profession is composed primarily of small businesses. Each year we conduct a survey of our firms and our most recent survey conducted in 1981 indicates that 82.5 percent of our firms have fewer than 10 employees. The 1977 Economic Census, the most current industry-wide data available, indicates that approximately 96 percent of firms that provide architectural services fall within the current SBA size standard of $2 million in annual receipts. I would first like to address general aspects of the procurement process and some of the problems faced by small architectural firms.

Firms maintain competitiveness by size and specialization. It should be noted that a small number of architects are needed to provide the design services for a very large project. Two or three architects with five or six draftsmen, in conjunction with engineering consultants, can design and coordinate a construction project in the $20-$30 million range. Many small firms use consultants to add to their expertise. By grouping several small specialized firms architects can produce a design team tailor-made to the particular project.

Federal procurement regulations recognize the idiosyncracies of our industry and emphasize the qualifications of the individual members of the design team. Size is considered only in determining the firm's ability to meet the production schedule, in determining general levels of overhead and in determining the levels of personal involvement by members of a firm. In all fairness, some jobs demand the production and multidisciplinary capabilities that only large firms can offer. Before I address the May 6 proposed SBA size standards I would like to discuss the AIA's position on the selection of architects and engineers for federal projects. The AIA represents the architectural profession as a whole and cannot advocate positions which may promote the interests of one segment of the profession over another.

The AIA endorses and supports the selection of architects and engineers for federal, state and local governmental work on the basis of professional qualifications and competence. This selection process is mandated in Public Law 92-582, commonly referred to as the Brooks Act. The Brooks Act requires public announcement of all contract requirements, selection and ranking of the three most qualified firms and contract negotiations with the highest ranking of the three firms. If the public owner cannot negotiate a satisfactory contract with this highest-ranked firm, negotiations end and the agency undertakes negotiations with the second-most-qualified firm. Failing an agreement with the second-ranked firm, the agency begins negotiations with the third-most-qualified firm.

Selecting architects on the basis of demonstrated qualifications and ability is in the best interest of the public. A qualifications-based system of selecting architectural services fosters an atmosphere of trust and confidence between the owner and the architect. The public and the profession are well served by insuring that the best architectural services are procured.

The current procurement of architectural/engineering (A/E) services is based on the qualifications of the individuals in the project team. Procurement experts knowledgeable in architecture, engineering and construction know these qualifications are more important than the size of a firm or its reputation.

The issue of set-asides is not an easy one for the AIA. We believe set-asides arbitrarily limit the competition of A/E firms and do not assist the genuinely small A/E firms. The Brooks Act requirements allow for equal competition by small firms. Unrealistically high set-asides shield those federal agencies unwilling to recognize the qualifications of small firms and the fine contributions such firms can make to design excellence in federal construction.

Small firms, because of their production capabilities, are often best suited for small projects. The Brooks Act has been criticized for being administratively burdensome particularly for projects small in scope. The law is very straightforward. The regulations and procedures for implementing the law need to be streamlined so small firms are not excluded from the procurement process. The AIA would be happy to provide its expertise to this Subcommittee for the purpose of examining these regulations in order to insure participation by small firms in the federal procurement process.

In addition, the six percent fee limit on A/E projects is particularly detrimental to small firms and small jobs. The six percent limitation is not normally a problem on most large projects and adequate fees can be negotiated within the six percent limitation. For smaller jobs, however, a fair fee often exceeds the six percent limitation which then negates the ability of a federal agency to contract the job out--at least to a small firm. This arbitrary fee structure precludes involvement in federal projects by many small A/E firms.

The Small Business Administration's (SBA) Proposed Size Standards

Mr. Chairman, I would now like to turn attention to the subject which is of immediate concern to all of us, the SBA's proposed size standards. As I have pointed out, the AIA is organized to promote the interests of the profession as a whole; it is not our intent to favor any one segment of the profession over any other. When the proposed size standards were announced, we encouraged our membership to comment but the Institute did not take a formal position. The AIA will continue neither to support nor to oppose regulations which tend to favor one segment of its membership. I have already discussed the realities of our profession. The present size standard of $2 million, as well as the proposed size standard of $3.5 million, run counter to the purposes of the SBA. In the text of the proposed regulations, the SBA indicates that the size standards were increased to offset inflation. Yet our statistics show that firm revenues have not kept pace with inflation.

Since 1972, architectural firms' share of total receipts for design services has declined markedly. Architectural services constituted almost 31 percent of total design receipts in 1972, but only 21 percent in 1977, according to the most recent economic census figures. The engineering share of total design receipts increased from 64 to 74 percent, while surveying remained around 5 percent.

From 1972 to 1977, architectural services grew at an annual rate of only 6 percent, while engineering and surveying services increased 18 and 11 percent, respectively. These figures translate, after inflation, to annual growth rates of 10 percent for engineering, 4 percent for surveying and -1 percent for architectural services.

We are pleased to see a change in the level of the standard for engineering services in order to achieve comparability between architectural and surveying services and engineering services. We have long maintained that architects and engineers work hand-in-hand and often an architectural firm is also an engineering firm and vice versa. The proposed $3.5 million standard for both is long-overdue recognition of the close working relationship between architects and engineers.

The SBA has further indicated that procuring agencies, such as the Department of Defense (DOD), have opposed the reduction in size standards in order to insure that a sufficient number of firms with substantive capabilities and sophistication can be eligible to compete. This is indicative of the problem created by set-aside quotas placed on federal agencies.

DOD, because of the nature of its procurements, has difficulty setting aside a sufficient number of procurements. As a result, DOD has required that virtually all of its A/E procurements should be set-asides. In meeting its quota, DOD often sets aside projects which are too large or complex for the average small firm. It is only natural, under these circumstances, that DOD should want large architectural firms to qualify for set-aside projects. Some logical questions at this point are whether the DOD approach serves the purpose of the set-aside program and whether it is the intent of the federal government to exclude approximately 2 percent of the architectural firms in America from all DOD contracts?

Assisting small business is a worthwhile goal of our government. The establishment of size standards based on the realities of each industry is required by many governmental programs. But the set-aside program has worked to the detriment of small architectural firms and has frustrated a procurement method that already recognizes the unique capabilities of small firms. The AIA believes that Public Law 92-582 represents the interest of the public and allows A/E firms to compete fairly in the federal marketplace. Overall, we think the small business set-aside requirements for A/E services should be eliminated. In principle, we do not favor set-asides, but if they are to be sanctioned by the government there must be some way to insure that set-asides are really achieving their purpose.

Every procurement system must at some point rely on the expertise of the individuals administering the system. The AIA has become alarmed by the increasing trend to replace industry experts with procurement specialists. The peculiarity of our industry requires that A/E projects be procured and administered by individuals knowledgeable in architecture, engineering and construction. The qualities of small firms will be recognized by industry experts but not by contracting officers unfamiliar with architecture. If the present A/E selection system in each federal agency has capable staff and selection is based upon qualifications, there can be fair competition between a small firm and a large firm.

In conclusion, Mr. Chairman, let me state that I hope these observations will aid the Subcommittee in its deliberations over these proposed size standards. The AIA is ready to assist the Subcommittee in any way that it can. I appreciate the opportunity to appear before you today.

Thank you.

Mr. **Addabbo**. Thank you very much, Mr. Patty.

Mr. **Patty**. Yes, sir.

Mr. **Addabbo**. You have proposed that the $3.5 million standard is long overdue and you would support that part of the size limitations?

Mr. **Patty**. Yes, sir.

Mr. **Addabbo**. Your main problem is the set-aside program.

Mr. **Patty**. Yes

Mr. **Addabbo**. Just a few more words, please, on why you feel that hurts small business rather than helps it.

Mr. **Patty**. Yes.

Mr. **Addabbo**. Go ahead.

Mr. **Patty**. In our industry, which is comprised primarily of small business, 86.5 percent of the firms consist of 10 persons or less. The projects which are normally set aside are the smaller projects. and our industry and profession is largely comprised of that same small business interest. So, when the projects are set aside, with a view toward only a particular segment of our industry, that precludes the very competitiveness that allows for the development of our total industry.

Mr. **Addabbo**. You mentioned the fact that the AIA has become alarmed by the increasing trend to replace the industry experts with procurement specialists.

Mr. **Patty**. Yes.

Mr. **Addabbo**. Are those procurement specialists in the private sector or in the government sector?

Mr. **Patty**. In the government sector.

Mr. **Addabbo**. In the government sector?

Mr. **Patty**. Yes, sir. We feel that it is very important to have persons that are negotiating these contracts, indeed developing the very need for the contracts, the persons who are well acquainted with the procedures of the design professions—architects and engineers—and that they not be persons who are only valued in their skills in negotiating the finest bottom line.

Mr. **Addabbo**. Thank you.

Mr. **Patty**. Yes, sir.

Mr. **Addabbo**. Mr. Daub.

Mr. **Daub**. Thank you, Mr. Chairman.

I had the opportunity when I practiced law many years ago to represent a lot of architects. I got involved in the philosophical arguments. So, I guess that is why I ask my first question. I am interested in page 4 of your testimony, the 6-percent fee limit. Could you elaborate on that or explain that?

Mr. **Patty**. Yes.

Mr. **Daub**. Could you please do that a little bit for the record?

Mr. **Patty**. Well, the Federal Government has set as a limitation the 6-percent fee on the construction value of projects as being the maximum amount to be able to compensate an architect or engineer for their services, Mr. Daub.

Mr. **Daub**. Go ahead.

Mr. **Patty**. The 6-percent fee certainly can work. It does work on the larger projects. But more and more our Federal Government is properly entering into a role of going into the marketplace of older buildings, restoring such buildings, utilizing existing space in the downtown urban centers, which is as it should be. That type of work on very small projects requires at least the same amount of effort from the architect or engineer as does the large new project. Consequently, the smaller firm must expand and extend itself to a greater length to satisfy that need. The fee limitation is to save our Federal Government money, which certainly is proper. Yet, the firms are not being properly compensated for their time.

Mr. DAUB. That is a good answer.

Mr. PATTY. Thank you.

Mr. DAUB. I appreciate it very much. Thank you for being here. Your testimony is well received.

Thank you, Mr. Chairman.

Mr. ADDABBO. Mr. Boehlert.

Mr. BOEHLERT. Mr. Patty, you talk about the Brooks Act being administratively burdensome.

Mr. PATTY. Yes.

Mr. BOEHLERT. You say the implementation—that is, the regulations and procedures for implementing the law—need to be streamlined. You talk about small firms being excluded from the procurement process.

Mr. PATTY. Yes.

Mr. BOEHLERT. Could you elaborate a little bit on that now?

Mr. PATTY. Well, each of the Federal agencies has—or most of them have—the right to set down their own qualification formats, and proposal request formats for small business particularly. Small businesses do not have the privilege of having persons within their firms that specialize in the marketing aspects. They are general practitioners. For small business, then, to be able to respond to each of these various agencies as to all of the various agencies' methods of proposal is quite a burden to small businesses. I firmly believe, speaking not now for the American Institute of Architects but personally, that if our Federal Government would streamline and standardize the process of proposal submissions, this would be a great asset to business generally, to small business particularly, and I know to architecture, and I would judge to other allied professions and industries, Mr. Chairman.

Mr. BOEHLERT. You couldn't find more agreement that you would find up here on that.

Just a question as a matter of curiosity.

Mr. PATTY. Yes.

Mr. BOEHLERT. I thank you for your excellent statement. Is it AIA's official position in its lexicon—well, you had adjusted your statement. It is "drafts persor" now?

Mr. PATTY. For as long as we have the luxury of having them around, I suppose. I think that we are moving far more out of that into higher forms of technology, but as long as we have them, yes.

Mr. BOEHLERT. Thank you very much.

Mr. PATTY. Yes, sir.

Mr. ADDABBO. Thank you very much for your time and your expertise in this matter.

Mr. PATTY. Thank you. We stand ready to provide you with any information the committee would like.

Mr. ADDABBO. Thank you. Our next witness is Stan Tesko, Deputy Director, Office of Small and Disadvantaged Business Utilization, Department of Defense. Stan, you know the routine. Good to see you again, Stan. Your entire statement will be made part of the record. We ask you to summarize it for the committee.

TESTIMONY OF STANLEY TESKO, DEPUTY DIRECTOR FOR SMALL BUSINESS AND ECONOMIC UTILIZATION POLICY, DEPARTMENT OF DEFENSE

Mr. TESKO. Thank you, Mr. Chairman.

After almost 10 years of appearing before you as a backup witness, I finally get a chance to testify myself.

Mr. ADDABBO. It is good to have you before us.

Mr. TESKO. We appreciate the opportunity to testify on small business size standards. Mr. Chairman, there are particular areas of concern to DOD such as dredging, A/E, construction, base maintenance support, ship repair and manufacturing. In the interest of time, I will make my remarks as brief as possible.

We did not comment on the dredging because we received no complaints. However, just before this hearing, we received some communications from the Southeast Dredgers Association that they received 17 comments regarding these size standards. It broke down that one recommended no change, four favored the lower size standards and 12 recommended they be raised. Due to this controversy, we have gone along with the approach that the Corps of Engineers and SBA establish a task force to look into this matter. We believe that this task force, as long as our views are represented by the Naval Facilities Engineering Command [NAVFAC] and the Corps of Engineers, that they will come up with an equitable approach on the dredging size standards.

Turning to the A/E industry, this industry has commanded more of our attention in the last 2 years that we have seen on any issue in our office in the last 10 or 12 years. It seems to result from two factors. Prior to the passage of Public Law 95-507, there was always a misunderstanding within DOD whether the set-aside program applied to A/E?

Now, Public Law 95-507 clarified that and said A/E set-asides are authorized.

The second point was that we had this policy published in the Defense Acquisition Regulation [DAR]. When this clarification came out to our contracting officers, a dramatic result occurred. In 1979, we awarded approximately $200 million in A/E awards. Of this amount, 66 percent or $132 million went to small business, but only 5.9 percent or $12 million went as a result of set-asides.

Then, by 1982, 3 years later, these awards now had grown to $314 million while the small business rate has gone from 66 percent to 77 percent or $241 million. However, the set-asides, rose from 5.9 percent to 58.1 percent. So, 58.1 percent of our awards in A/E have been made through set-asides.

You ask the question whether the small firms are dependent upon the set-asides, the set-aside program for the A/E? Very clearly, our quantification shows that this would be the case.

About 2 years ago, with this increase in set-asides, the large A/E firms began to perceive that an opportunity market for them was being cut off because of this set-aside program. This concern resulted in several meetings. We met with your staff here about 2 years ago and with the representatives of the A/E industry.

Also, the Senate, approximately 1 year ago, required us to review the situation and to submit a report to Congress. This report was submitted to Senator Tower. We provided copies of the report to your staff along with our comments to SBA on the size standards. This report that we made to the Senate included six conclusions.

One was the DOD's current implementation of small business set-asides for A/E services is statutorily authorized and correctly implemented through our Defense Acquisition Regulations.

Two is that this type of implementation has been supported by the courts and the GAO. We were taken to the Fourth Circuit Court in February 1982 and it was the statement of the court that we are proper and legal.

Three is that quality performance of our requirements is not jeopardized by our current procedures, nor do we have any complaints in this particular area from our construction engineers.

Four, we believe to establish special set-aside criteria for the A/E industry would set a precedent which could ultimately lead to attempts by other industry segments to modify set-aside procedures regarding their industry, all of which would severely compromise the integrity of the Nation's small business program and our procurement process.

Five, is that at best, not enough is known about the whole potential industry, not just the impact on current large A/E firms.

Six, since we believe it is the size standard which is really the issue, we support the SBA's proposal for a more thorough review of that issue.

The large A/E firms and their representative trade associations continued to press the department for some relief from our set-aside program. Our position was that the factor that this issue turned on was the level at which the size standard was established and this was clearly the responsibility of the Small Business Administration.

In our discussions with these associations, it appears that the size standard of $7.5 million average annual sales, which is the existing size standard over a 3-year period, may be somewhat high. Accordingly, we agreed with the SBA proposal to reduce the size standard to $3.5 million as being a fair recognition of their concerns. The equity of this proposed size standard is further evidenced when we consider that this represents a 54 percent reduction in the present size standard when all the others are being increased 80 percent thereby resulting in 134 percent difference in favor of the large A/E firm's concerns. We think this more than fair.

Turning to the construction industry. We went along with the SBA proposal that it be increased by 80 percent to $21.5 million to recognize the adverse effects from inflation. While this may seem like a high figure, and I have close friends in the construction industry who tell me with very much clarity that the small business person gets to keep precious little of this $21.5 million, because much of it is expended on equipment, brick, mortar, steel, wages, workmen's compensation, licenses, insurance, and bonding. He gets to keep very little of these revenues which just pass through his hands.

It should be noted that the small A/E construction firms in this country do an outstanding job with the Department of Defense.

I have been in this office for almost 10 years now. I have yet to hear the first complaint on quality against a small A/E or small construction firm.

One of the most serious impacts of the SBA proposed statement has to do with the nonmanufacturers where they want to change to a set-aside rule of $15, $25, and $35 million as opposed to a 500-man ceiling. This would affect 61 of our different industries. It would be a disaster to our set-aside program.

I would just like to cover 2 industries of the 61 which are affected. One has to do with the textile industry, the cut, sew, and trim firms. It would reduce them to $15 million. We feel that that would almost do away with our set-aside program in this particular industry.

The other problem has to do with petroleum. This is one of significant concern because it would have a devastating effect. Many of our small and disadvantaged firms, the Wallace and Wallaces and others, who provide the support to our post, camps, and stations. We need those firms as part of our industrial base. We feel that if we went to that standard of $35 million in petroleum that our awards to small business would be reduced by approximately $1 billion. This is not my estimate. This is not from me. This comes from the Defense Logistics Agency. We are very concerned because this year we are running drastically behind last year's performance. Last year, at this time at the end of 11 months, we were awarding some $16.5 billion to the small business firms of this Nation. This year we are awarded about only $17.5 billion on a much higher base. In other words, our small business rate of participation is down at 17 percent. Last year we were at 19.2 percent. That represents $1.8 billion shortfall in awards to the small business community. What we see is attacks being made on the small business program such as at the size standards, the commercial products acquisition, and others. You have got to stand up and defend the programs, and we believe that we are standing up for the small business community. If we were to lose that $1 billion in petroleum awards on the base right now, which is $100 billion, our ratio would be down to 16.4 percent. I, as an individual, don't believe that is a fair share for the small business community.

Mr. ADDABBO. If I might just interrupt.

Mr. TESKO. Yes.

Mr. ADDABBO. The standards have not been changed. What would be the reason for the loss?

Mr. TESKO. One of the first things that I must give recognition to, although I have fought it many times, and you've heard it many times, is the procurement mix. Let me just cite you some specific numbers as they apply to our claimant programs.

Mr. ADDABBO. Yes.

Mr. TESKO. The ship's claimant program has gone up by about 30 percent. This is mainly large business. In the airframes, the missiles, the combat vehicles, or, in other words, the highest proportion of the spending is in major weapons system area. We have not seen the offset increase where small business firms are getting a larger share of the subcontracting area. That has not occurred.

We are being judged on a ratio of small business awards, not on the increasing dollars awarded to small business. There are many people that believe we should be on the dollar goal. That, I don't think, gives a fair representation of what we are doing for small business. The reduction in the percentage of small business awards results mainly for the large increase in expenditures for these large weapons programs which are not within the capability of the small business community to provide.

Mr. ADDABBO. H.R. 2133 might correct some of that.

Mr. TESKO. Yes, sir, as a matter of fact, the other thing it would help to correct is when you quantify in law the sufficiency of competition of set-asides as being two or more small business sources.

Therefore, we recommend that the size standards in the manufacturing area be retained at the 500-man ceiling.

The other such area that we would like to address that we have some concern about, sir, is the area of base maintenance.

The size standard today is $7.5 million. SBA increased the size standard to $13.5 million. We believe that this is a step in the right direction, but it doesn't go far enough. It does not go far enough in an industry that is dominated by the Boeings, the Northrups, the Pan Ams, and the RCA's of this business world.

Raising the size standards to the same proportion as all other standards fails to take into consideration the large size of many base maintenance contracts.

We have one base that has taken 19 different services and put them all together into one consolidated contract. If you were to take the size standard for each of these services, this would add up to $48 million. If you add the 80-percent increase, it would bring this up to $86 million. We agree there can't be a small business standard like that. But we do believe that if true recognition is to be given to this new industry, the size standard should be established at $20 million. This would allow several small firms to get together and pool their kind of procurement.

The other point which shows that the size standard, the $7.5 million, is unsatisfactory is where we use the term "busted." We solicited some of these base maintenance contracts and found we did not receive a single response from the small business community. They don't have the capacity, the credit, the bonding. That is why we believe the $20 million size standard would not be too large in an industry that is dominated by the real big firms which just come in and take away procurement opportunities from small firms.

We have one other consideration, too, which has to do with Navy ship repair. This is a size standard that the SBA kept at a thousand. We strongly recommend this size standard be kept at this figure and no effort be made to reduce it, because the Navy has established some very strict requirements requiring significantly more capability, not less on the part of any firm responding to ship repair requirements. The firm must do at least 55 percent of its work with its own resources. It can't subcontract out more than that. Second, it must have an organizational capability for handling efficiently such functions as material control, financial control, quality control, and the capability to manage subcontractors. It must have access to a drydock. This was not a requirement heretofore, Mr. Chairman.

So, we believe that 1,000 employees which is the present size standard and which has existed for years should remain the same.

We testified in the same manner 2 years ago before the Senate Small Business Committee on these small business size standards. Our approach was the same. Any size standard based on the number of employees, leave it alone unless you have some compelling reason to change it. Any size standard predicated on annual receipts should be adjusted upward to inflation. It should be noted that the size standards are the most critical aspect of the small business program because set-asides are the only means that we have in a contracting activity to carry out your mandate to award a fair share, and I say a fair share, not a reasonable share, but a fair share of our total awards to the small business community. We need the set-aside program in order to carry out that mandate. It is the underpinning of our entire small business and small disadvantaged business program.

Set-asides will provide for more competition, not less. You've heard it restricts competition. There are many small firms that, when they hear a procurement is a small business set-aside, they will participate because they know it is not a buy-in. They know that they are competing among their peers. There are no sole source awards on small business set-asides because, for the set-aside, you must have a reasonable expectation that offer will be received from at least two small business firms.

We must guard against lowering the size standard too low because, if we do this, many of our contracting officers have their mind set that small business can't do it. If you reduce the size standard too low, they will say that they haven't the capacity, the capability or they don't have the credit. They will prefer to go with the big business safe side philosophy. We must give them that environment out there that there are small firms that can do the job because they possess all the necessary capabilities.

We believe very much like Secretary Weinberger said in January 1981, that the Department of Defense believes that it is really good business to do business with small business. We are going to try to improve that.

Sir, I'd be only too glad to answer any questions that I may be capable of answering.

Mr. ADDABBO. Thank you very much, Mr. Tesko, for your forthright and uncleared OMB statement. This is very heartwarming. It is a cry in the wind as far as DOD is concerned. I know that you have worked very closely with the committee trying to get the small business program moving ahead.

Mr. TESKO. Thank you. This completes the statement.

Mr. ADDABBO. Thank you. Your full statement, without objection, will be made part of the record at this time, Mr. Tesko.

[Mr. Tesko's prepared statement, with attachments, follows:]

PREPARED STATEMENT OF STANLEY TESKO, DEPUTY DIRECTOR FOR SMALL BUSINESS AND ECONOMIC UTILIZATION POLICY, DEPARTMENT OF DEFENSE

Mr. Chairman and Members of the Committee:

I am Stanley Tesko, the Deputy Director for Small Business and Economic Utilization Policy in the Directorate of Small and Disadvantaged Business Utilization of the Office of the Secretary of Defense.

The Department of Defense appreciates this opportunity to present its views regarding the proposed size standards published in the Federal Register of May 6, 1983.

As the Committee has requested, I will direct my remarks to the following industries: dredging, A&E services, construction and manufacturing. In order that the Committee may be provided more comprehensive information regarding our views of these proposed size standards, we have provided your staff with a copy of the report the Department submitted to the Small Business Administration in response to the Federal Register notice.

We did not initially comment to the SBA on the dredging size standard because at that time, our office had not received any comments or complaints from small dredging firms. However, subsequently we have heard from a representative of the Southeast Dredgers Association stating that of the 17 members of the association four members favor a lower size standard, one prefers it remain at the present level of §9.5 million and 12 members recommend raising the size standard to $17.1 million which is the same 80% increase being made in almost every other size standard.

Due to this controversy the Corps of Engineers and SBA have established a task force with other Federal procuring agencies to develop a size standard for the dredging industry. We are confident that the task force will recommend an equitable standard.

The size standard regarding the A&E industry, as it applies to military construction has commanded an inordinate amount of our time particularly during the last two years. It seems the interest in this size standard results primarily from two factors. One is the fact that Public Law 95-507 clarified a long held misunderstanding whether set-asides are authorized for A&E services. The law estabishes that such set-asides are authorized. Once this fact was clearly established, and published in the Defense Acquisition Regulation (DAR) our total A&E awards, particularly the amount of those set-asides for small business grew dramatically. For example, in FY 1979 we made a total (to both large and small business) of $200.7 million in A&E awards. Of this amount, $132.5 million or 66.0% was awarded to small business and $11.9 million or 5.9% was awarded to small business on set-asides. For FY 1982, (the latest year for which we have complete statistics) our total awards increased to $313.8 million of which $241.5 million or 77.1% was awarded to small business. Of this amount, $182.3 million or 58.1 % was the result of set-asides. Enclosure #1 shows the history of these awards from FY 1978 through FY 1982.

Approximately two years ago, when this increase in small business set-asides awards began to occur, the large A&E firms began to perceive that an opportunity market for them was being denied because of the set-aside program. This concern on their part resulted in meetings with your committee staff in which we participated.

It was not long thereafter that the Senate required the Department to make a review of this matter. We have provided your staff a copy of that report which concludes that:

(1) DoD's current implementation of small business set-asides for A&E services is statutorily authorized and correctly implemented through DAR.

(2) This type of implementation has been supported by the courts and the GAO.

(3) Quality performance of our requirements is not jeopardized by our current procedures, nor do we consider our mobilization readiness to be impaired.

(4) To establish specific set-aside criteria for the A&E industry would set a precedent which could ultimately lead to attempts by other industry segments to modify set aside procedures on their industry, all of which would severly compromise the integrity of this nation's small business program.

(5) At best, not enough is known about the potential impact of any change in size standard on the entire A&E industry, not just the impact of the current A&E standard on large firms.

(6) Therefore, since we believe it is the size standard which is really the issue, we support the SBA's proposal for a more thorough review of that issue."

The large A&E firms and their representative trade associations continued to press the Department for some relief from our set-aside program. Our position was that the factor that this issue turned on was the level at which the size standard was established and this was clearly the responsibility of the Small Business Administration.

Therefore, their primary route to alleviate what they believe to be an unfair situation was with the SBA. In our discussions with these associations, it appears that the size standard of $7.5 million average annual sales over a three year period may be somewhat high. Accordingly, we agreed with the SBA proposal to reduce this size standard to $3.5 million as being a fair recognition of the large industry concerns. The equity of this proposed size standard is further evidenced when we consider that this represents a 54.7% reduction in the size standard when almost every other size standard was increased by approximately 80%.

We believe the SBA is correct in proposing a size standard of $21.5 million in the construction industry as this truly recognizes the inflation which has taken place in the construction industry since the size standard was last revised in 1976. While this may seem to be a high figure, it really is not when one considers just how little the small business man gets to keep as profit. Most all of this $21.5 million represents costs for equipment, brick, mortar, lumber, steel, wages, workmen's compensation, licenses, insurance and other costs leaving him little for the fruits of his labor in this most competitive field.

It should be noted that the small A&E and construction firms of this country do an outstanding job for the Department of Defense. We in the DoD Small and Disadvantaged Business Office have yet to receive the first complaint as to their performance.

One of the most serious impacts of the proposed SBA regulations is on the DoD small business set-aside program regarding "nonmanufacturers". SBA has effectively lowered the size standard for "nonmanufacturing" concerns from 500 employees to between $15 - 35 million in receipts for sixty-one different industries in which DoD currently issues several billion dollars in small business set-aside contracts. Theproposed SBA regulations will eliminate many current DoD small business firms from our set-aside program. I would like to cover just two of these industries upon which the DoD depends very much on this nation's small business community.

Convertors on textile procurements would have to meet the wholesale industry size standard of $15 million in average annual receipts (including affiliates) for their three most recently completed fiscal years. This will likely eliminate small business set-asides in this area. Another problem could involve those instances where a firm, which is eligible as a manufacturer, bids on a solicitation as a "regular dealer" because all of the work is to be subcontracted to another small business. If the offeror in its capacity as a "regular dealer" or "nonmanufacturer" must comply with the wholesale industry size standard, it is highly probable that they would not qualify as a small business. Therefore, it seems much more practical to keep the nonmanufacturer size standard at 500 employees which would be the one constant standard. If a change must be made to variable standards, it would be much easier if number of employees were used rather than average annual receipts. We recommend strongly that the size standard of 500 employees be retained for not only convertors but also for all dealers.

We are most concerned about SBA's proposal to change the size standard methodology for petroleum supplies and related services from the number of employees to average annual receipts. Such a change would have a devastating effect on small business dealers operating in this industry whom we consider most critical to providing the support required by numerous posts, camps and stations of the Department of Defense. The petroleum industry is a most unique and volatile industry in this country and is subject to many pressures, including political pressures which the small refiner or dealer must continually face and try to overcome. Prices in this industry can and have in many instances increased significantly solely due to a specific action taken by a foreign ally or other Governments, such as occurred during the past oil embargo. When this occurs, those small firms are at a distinct disadvantage in comparison to those firms which obtain their product domestically. This can result in the foreign-supplied small business firm's sales being significantly inflated and their status changed to a large business even though there was no increase in revenue/profit to the company. This would occur because the largest share of the selling price is the cost of the product even though not one additional employee would have been hired, which is the true measure of expansion of a firm's operational capability and profitability. Simply put, firms would be classified either small or large solely on the basis of factors over which they essentially have little or no control.

Additionally, present small petroleum dealers, to be classified as large under SBA's proposal, would become ineligible for the very essential and important SBA and other government programs which are involved in procurement, such as the advantage in progress payments, certificate of competency, tie bids, and being freed of the subcontracting reporting. An impact of far greater magnitude is that many firms' status would be affected by the inflated government contracts, even though such government sales represent only a very small part of their total sales. This would be extremely unfair to those firms who may also desire to participate in SBA's loan programs.

Another important consideration is the impact this change would have on the Department of Defense (DoD) Small and

Disadvantaged Business Utilization Programs and the President's program to assist small business and increase awards to minority firms by ten percent. We are very concerned about accomplishing those objectives as indicated by Enclosure #2, which shows DoD's FY 1983 performance drastically behind last year's accomplishments after eleven months. The Defense Logistics Agency (DLA) estimates that, if the proposed size standards were to be implemented, our small business petroleum awards would decrease by approximately $1 billion. Such a change in the standard would not only have this disasterous effect, but would radically distort any meaningful comparison of not only DLA's but also DoD's overall year-to-year small and disadvantaged business performance. For example, as of the first eleven months of FY 1982, our small business prime contracting rate stood at 19.2%. For the same period this year we are down to 17.4%. However, if we were to have suffered this $1 billion loss this year our rate would have been down to the drastically lowered figure of 16.4%. DoD made its FY 1983 prime contracting goal by 0.1% (one-tenth) and this was attributed mainly by the performance in our petroleum account. Because of the importance of these petroleum small business firms to the accomplishment of our mission, we have included additional information at Enclosure #3.

Therefore, it is recommended that proposed size standards for nonmanufacturer be expressed in number of employees, as in the past, rather than average annual receipts. The size standard for nonmanufacturers of supplies and equipment has always been 500 employees. This, of course, is the dealer size standard for the thousands of acquisitions processed under small business small purchase set-asides for supplies and equipment. With variable size standards as proposed for the wholesale industry based on average annual receipts, it will be very difficult for small purchase buyers to know which distributors are small for which supplies or equipment. Additionally, since size protests for nonmanufacturers would relate to average annual receipts rather than number of employees, specific factual reasons to support a size protest will be more difficult to develop.

The SBA proposed size standard for base maintenance support has been raised from $7.5 million to $13.5 million representing an 80% increase, which is a similar increase to others which have been raised based on receipts. This is certainly a step in the right direction; however, it does not go far enough in this industry which is dominated by the Boeings, Northrups, Pan Ams and RCA's of the world.

Raising this size standard in the same proportion as all others in this category fails to take into consideration the large size of many base maintenance contracts. Base maintenance contract requirements, because of the many diverse services which are consolidated into a single solication, will almost totally exclude small businesses as meaningful competitors as primecontractors for the consolidations which may occur in the future.

It is our considered opinion that the size standard for base maintenance support cannot be adjusted upward only on the basis of inflation. Consideration must also be given to the fact that wholesale consolidation of requirements into a single umbrella contract in a new industry is likely to increase. It would not be unusual for just a single large base maintenance contract to convert a small business into a large business by the time the contract is completed.

Recent experience indicates that base maintenance contracts solicited as small business set-asides had to be cancelled because no offers were received from small businesses. We therefore believe that it is appropriate that a size standard reflect the need for greater capability to be developed by this segment of the small business community.

If all of the size standards for the many and varied services were added together for a single-base, the small business size standards as presently established could total $49.0 million and using the proposed 80% increase, could total $88 million. Such a size standard would not be acceptable, nor should a size standard of $13.5 million or $15.0 million be considered acceptable. Based on the foregoing considerations, and to provide for an effective set-aside program for this unique industry, it is strongly recommended that the size standard be established at $20 million. We selected this $20 million standard based on several factors. First, the thirteen consolidations for which contracts were awarded (which we mentioned in our September 29, 1982 submission to you) had an average cost estimate of $13.5 million, with a high $50 million, and a low of $583,000. Five of them exceeded $12 million in cost. We believe that it is realistic to anticipate future contracts will follow this pattern. For contracts of this magnitude, the size standard should reasonably reflect the size of firms which could successfully handle such contracts. It would not be unreasonable for a standard to be set at 50% greater than the average award. This would result in a $20 million standard.

We also must recognize that bonding requirements for these contracts are set at very high levels, and firms must have substantial sales to obtain bonding. The $20 million standard would materially assist small firms in qualifying for bonding, which is a prerequisite for submitting an offer. This size standard would also facilitate the capabilities of such firms to subcontract a considerable portion of the work since they could sustain the overhead necessary to manage the subcontracting workload. This proposed size standard of $20 million will enable several small business firms to join in a joint venture and become meaningful competitors for umbrella contracts for which they could not compete individually.

We have also had the Navy conduct a very comprehensive review of the shipbuilding and ship repair industries on east, gulf and west coast ports which we provided to SBA and members of your committee staff. We concur with the results of this review and recommend that the size standard for both the shipbuilding and ship repair industries be retained at 1,000 employees. The retention of this size standard for ship repair is even more valid today considering the action taken by the Navy Sea Systems Command on May 27, 1983 when it tightened the requirements which a firm must meet to be eligible to obtain a ship repair contract. These are: (1) the firm must accomplish at least 55% of the work with its own production and personnel resources, i.e., not more than 45% can be subcontracted out; (2) must have an existing organizational capability for handling efficiently such functions as material control, financial control, quality control and the capability to manage subcontractors; and (3) must have continued access to a drydock. All of these qualifications bespeak the need for more, not less employees, to perform all of these functions. Therefore, the DoD recommends strongly that the size standard for ship repair should remain at the 1,000 employee level.

The Department testified previously on May 5, 1981 before the Senate Small Business Committee on one of the earlier SBA proposals regarding size standards. Then, as now, our overall position is that any size standard based on the number of employees should be retained and any based on average annual revenues should be adjusted upward based on inflation from when the size standard was established or last revised. We believe the SBA has, in the main, followed this approach except as we have noted above.

It should be noted that "size standards" are the most critical aspect of the whole small business program because they drive the set-aside program which is the "only" means an agency has to carry out the mandate of the Small Business Act to award a fair share of its "total" procurements to small business.

I would be glad to answer any questions the members of the Committee may have.

ARCHITECT AND ENGINEERING AWARDS 1/
(EXCLUDING NAVAL A&E)
(AMOUNTS IN THOUSANDS)

	TOTAL A & E		LARGE AND SMALL BUSINESS						SET-ASIDES				SMALL DISADVANTAGED							
			LARGE		SMALL		PCT OF SMALL		SET-ASIDES		PCT OF TOTAL		NON-8A		8A		TOTAL SM-DIS		PCT-TOTAL	
	ACTNS	$(000)	ACTNS	$(000)	ACTNS	$(000)	ACTN	AMT	ACTNS	$(000)	ACTN	AMT	ACNS/	$(000)	ACNS/	$(000)	ACTNS/	$(000)	ACTN	AMT
ARMY (Excluding Civil Functions)																				
FY 79	1,837	131,078	485	71,201	1,352	59,877	73.6	45.7	79	5,705	4.3	4.4	132	5,856	12	317	144	6,173	7.8	4.7
FY 80	1,532	134,315	419	85,079	1,113	49,236	72.7	36.7	152	7,298	9.9	5.4	104	4,246	11	377	115	4,623	7.5	3.4
FY 81	2,001	230,845	379	151,155	1,622	79,690	81.1	34.5	728	37,974	36.4	16.4	187	7,641	28	1,395	215	9,036	10.7	3.9
FY 82	2,532	276,428	331	164,315	2,201	112,113	86.9	40.6	1,537	74,910	60.7	27.1	226	9,474	26	752	252	10,226	10.0	3.7
CIVIL FUNCTIONS																				
FY 79	1,029	95,013	239	38,010	790	57,003	76.8	60.0	12	902	1.2	.9	53	2,221	4	156	57	2,377	5.5	2.5
FY 80	874	50,342	238	18,764	636	31,578	72.8	62.7	45	1,626	5.1	3.2	70	3,157	8	788	78	3,945	8.9	7.8
FY 81	847	47,883	202	18,787	645	29,096	76.2	60.8	152	7,149	17.9	14.9	107	4,939	14	568	121	5,507	14.3	11.5
FY 82	600	25,862	160	11,075	440	14,787	73.3	57.2	209	6,995	34.8	27.0	67	2,301	7	818	74	3,119	12.3	12.1
NAVY																				
FY 79	3,347	597,257	1,158	449,332	2,189	147,925	65.4	24.8	371	20,558	11.1	3.4	89	3,860	26	1,895	115	5,755	3.4	1.0
FY 80	3,490	500,083	960	340,306	2,530	159,777	72.5	32.0	973	49,056	27.9	9.8	173	7,683	39	2,341	212	10,024	6.1	2.0
FY 81	3,356	440,522	938	279,475	2,418	161,047	72.1	36.6	1,445	80,799	43.1	18.3	209	10,201	58	2,652	267	12,853	8.0	2.9
FY 82	4,797	662,125	1,587	448,837	3,210	213,288	66.9	32.2	2,201	116,303	45.9	17.6	298	12,879	80	3,549	378	16,428	7.9	2.5
AIR FORCE																				
FY 79	299	33,762	129	22,135	170	11,627	56.9	34.4	38	3,354	12.7	9.9	12	379	2	1,524	14	1,903	4.7	5.6
FY 80	316	35,585	115	22,325	201	13,260	63.6	37.3	64	2,888	20.3	8.1	23	1,188	9	2,093	32	3,281	10.1	9.2
FY 81	404	46,306	114	21,413	290	24,893	71.8	53.8	189	7,700	46.8	16.6	32	1,431	12	3,169	44	4,630	10.9	10.0
FY 82	738	43,026	124	18,278	614	24,748	83.2	57.5	458	15,994	62.1	37.2	87	3,240	19	3,552	106	6,792	14.4	15.8
DLA																				
FY 79	13	486	1	15	12	471	92.3	96.9	6	85	46.2	17.5	-	-	-	-	-	-	-	-
FY 80	11	333	5	192	6	141	54.5	42.3	-	-	-	-	-	-	-	-	-	-	-	-
FY 81	10	239	3	63	7	176	70.0	73.6	1	13	10.0	5.4	-	-	-	-	-	-	-	-
FY 82	22	604	9	344	13	260	59.1	43.0	11	190	50.0	31.5	-	-	-	-	-	-	-	-
TOTAL DOD																				
FY 79	6,525	857,596	2,012	580,693	4,513	276,903	69.2	32.3	506	30,604	7.8	3.6	286	12,316	44	3,892	330	16,208	5.1	1.9
FY 80	6,223	720,658	1,737	466,666	4,486	253,992	72.1	35.2	1,234	60,868	19.8	8.4	370	16,274	67	5,599	437	21,873	7.0	3.0
FY 81	6,618	765,795	1,636	470,893	4,982	294,902	75.3	38.5	2,515	133,635	38.0	17.5	535	24,212	112	7,784	647	31,996	9.8	4.2
FY 82	8,869	1,008,045	2,211	642,849	6,478	365,196	74.6	36.2	4,416	214,392	50.8	21.3	678	27,894	132	8,671	800	36,565	9.2	3.6

1/ This table presents all A&E actions except marine construction (R216 in Item 10A).

ARCHITECT AND ENGINEERING AWARDS FOR CONSTRUCTION 1/
(EXCLUDING NAVAL A&E)
(AMOUNTS IN THOUSANDS)

	TOTAL A & E		LARGE AND SMALL BUSINESS						SET-ASIDES				SMALL DISADVANTAGED							
			LARGE		SMALL		PCT OF SMALL		SET-ASIDES		PCT OF TOTAL		NON-8A		8A		TOTAL SM-DIS		PCT-TOTAL	
	ACTNS	$(000)	ACTNS	$(000)	ACTNS	$(000)	ACTN	AMT	ACTNS	$(000)	ACTN	AMT	ACNS	$(000)	ACNS	$(000)	ACNS	$(000)	ACTN	AMT
ARMY (Excluding Civil Functions)																				
FY 79	1,551	82,133	340	27,577	1,211	54,556	78.1	66.4	42	4,382	2.7	5.3	119	5,649	4	130	123	5,779	7.9	7.0
FY 80	1,275	76,769	284	32,735	991	44,034	77.7	57.4	92	5,016	7.2	6.5	94	3,962	8	209	102	4,171	8.0	5.4
FY 81	1,716	96,517	254	25,630	1,462	70,887	85.2	73.4	663	33,252	38.6	34.5	174	7,162	17	625	191	7,787	11.1	8.1
FY 82	2,216	137,984	230	36,716	1,986	101,268	89.6	73.4	1410	69,872	63.6	50.6	203	8,839	24	474	227	9,313	10.2	6.7
CIVIL FUNCTIONS																				
FY 79	476	47,072	108	29,833	368	17,239	77.3	36.6	7	592	1.5	1.3	25	1,036	-	-	25	1,036	5.3	2.2
FY 80	383	23,260	98	9,671	285	13,589	74.4	58.4	16	1,312	4.2	5.6	32	1,060	4	600	36	1,660	9.4	7.1
FY 81	488	26,982	114	12,106	374	14,876	76.6	55.1	79	3,266	16.2	12.1	38	1,002	7	252	45	1,254	9.2	4.6
FY 82	319	15,295	99	7,348	220	7,947	69.0	52.0	109	3,564	34.2	23.3	47	1,088	-	-	47	1,088	14.7	7.1
NAVY																				
FY 79	1,248	61,736	107	7,665	1,141	54,071	91.4	87.6	125	5,258	10.0	8.5	73	2,529	-	-	73	2,529	5.8	4.1
FY 80	1,342	80,123	95	8,563	1,247	71,560	92.9	89.3	575	31,921	42.8	39.8	140	6,420	2	849	142	7,269	10.6	9.1
FY 81	1,664	99,249	143	17,497	1,521	81,752	91.4	82.4	1,229	67,055	73.9	67.6	188	8,720	2	105	190	8,825	11.4	8.9
FY 82	2,234	139,772	148	25,811	2,086	113,961	93.4	81.5	1,903	95,091	85.2	68.0	282	12,051	-	-	282	12,051	12.6	8.6
AIR FORCE																				
FY 79	130	9,725	19	3,098	111	6,627	85.4	68.1	31	1,634	23.8	16.8	6	136	1	12	7	148	5.4	1.5
FY 80	148	14,052	13	5,639	135	8,413	91.2	59.9	46	2,166	31.1	15.4	16	915	4	266	20	1,181	13.5	8.4
FY 81	222	11,557	22	2,305	200	9,252	90.1	80.1	158	6,464	71.2	55.9	29	1,309	2	43	31	1,352	14.0	11.7
FY 82	519	19,950	24	1,855	495	18,095	95.4	90.7	380	13,597	73.2	68.2	77	3,057	10	215	87	3,272	16.8	16.4
DLA																				
FY 79	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
FY 80	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
FY 81	1	13	-	-	1	13	100.0	100.0	1	13	100.0	100.0	-	-	-	-	-	-	-	-
FY 82	11	184	-	-	11	184	100.0	100.0	10	167	90.9	90.8	-	-	-	-	-	-	-	-
TOTAL DOD																				
FY 79	3,405	200,666	574	68,173	2,831	132,493	83.1	66.0	205	11,866	6.0	5.9	223	9,350	5	142	228	9,492	6.7	4.7
FY 80	3,148	194,204	490	56,608	2,658	137,596	84.4	70.9	729	40,415	23.2	20.8	282	12,357	18	1,924	300	14,281	9.5	7.4
FY 81	4,091	234,318	533	57,538	3,558	176,780	87.0	75.4	2,130	110,050	52.1	47.0	429	18,193	28	1,025	457	19,218	11.2	8.2
FY 82	5,299	313,815	501	71,730	4,798	241,455	90.5	77.1	3,812	182,291	71.9	58.1	609	25,035	34	689	643	25,724	12.1	8.2

1/ This table presents all A&E actions (minus R216 marine A&E) that are for construction (C2 in Item 10C)

ARCHITECT AND ENGINEERING AWARDS FOR NON-CONSTRUCTION 1/
(EXCLUDING NAVAL A&E)
(AMOUNTS IN THOUSANDS)

	TOTAL A & E		LARGE AND SMALL BUSINESS						SET-ASIDES				SMALL DISADVANTAGED							
			LARGE		SMALL		PCT OF SMALL		SET-ASIDES		PCT OF TOTAL		NON-8A		8A		TOTAL SM-DIS		PCT-TOTAL	
	ACTNS	$(000)	ACTNS	$(000)	ACTNS	$(000)	ACTN	AMT	ACTNS	$(000)	ACTN	AMT	ACNS	$(000)	ACNS	$(000)	ACNS	$(000)	ACTN	AMT
ARMY (Excluding Civil Functions)																				
FY 79	286	48,945	145	43,624	141	5,321	49.3	10.9	37	1,323	12.9	2.7	13	207	8	187	21	394	7.3	0.8
FY 80	257	57,546	135	52,344	122	5,202	47.5	9.0	60	2,282	23.3	3.9	10	284	3	168	13	452	5.1	0.8
FY 81	285	134,328	125	125,525	160	8,803	56.1	6.6	65	4,722	22.8	3.5	13	479	11	770	24	1,249	8.4	0.9
FY 82	316	138,444	101	127,599	215	10,845	68.0	7.8	127	5,038	40.2	3.7	23	635	2	278	25	913	7.9	0.7
CIVIL FUNCTIONS																				
FY 79	553	47,941	131	8,177	422	39,764	76.3	82.9	5	310	0.9	0.6	4	156	28	1,185	32	1,341	5.8	2.8
FY 80	491	27,082	140	9,093	351	17,989	71.5	66.4	29	314	5.9	1.2	38	2,097	4	188	42	2,285	8.6	8.4
FY 81	359	20,901	88	6,681	271	14,220	75.5	68.0	73	3,883	20.3	18.6	69	3,937	7	316	76	4,253	21.2	20.3
FY 82	281	10,567	61	3,727	220	6,840	78.3	64.7	100	3,431	35.6	32.5	20	1,213	7	818	27	2,031	9.6	19.2
NAVY																				
FY 79	2,099	535,521	1,051	441,667	1,048	93,854	49.9	17.5	246	15,300	11.7	2.9	16	1,331	26	1,895	42	3,226	2.0	0.6
FY 80	2,148	419,960	865	331,743	1,283	88,217	59.7	21.0	398	17,135	18.5	4.1	33	1,263	37	1,492	70	2,755	3.3	0.7
FY 81	1,692	341,273	795	261,978	897	79,295	53.0	23.2	216	13,744	12.8	4.0	21	1,481	56	2,547	77	4,028	4.6	1.2
FY 82	2,563	522,353	1,439	423,026	1,124	99,327	43.9	19.0	298	21,212	11.6	4.1	16	828	80	3,549	96	4,377	3.7	0.8
AIR FORCE																				
FY 79	169	24,037	110	19,037	59	5,000	34.9	20.8	7	1,720	4.1	7.2	6	243	1	1,512	7	1,755	4.1	7.3
FY 80	168	21,533	102	16,686	66	4,847	39.3	22.5	18	722	10.7	3.4	7	273	5	1,827	12	2,100	7.1	9.8
FY 81	182	34,749	92	19,108	90	15,641	49.5	45.0	31	1,236	17.0	3.6	3	122	10	3,126	13	3,248	7.1	9.3
FY 82	219	23,076	100	16,423	119	6,653	54.3	28.8	78	2,397	35.6	10.4	10	183	9	3,337	19	3,520	8.7	15.3
DLA																				
FY 79	13	486	1	15	12	471	92.3	96.9	6	85	46.2	17.5	-	-	-	-	-	-	-	-
FY 80	11	333	5	192	6	141	54.5	42.3	-	-	-	-	-	-	-	-	-	-	-	-
FY 81	9	226	3	63	6	163	66.7	72.1	-	-	-	-	-	-	-	-	-	-	-	-
FY 82	11	420	9	344	2	76	18.2	18.1	1	23	-	-	-	-	-	-	-	-	-	-
TOTAL DOD																				
FY 79	3,120	656,930	1,438	512,520	1,682	144,410	53.9	22.0	301	18,738	9.6	2.9	63	2,966	39	3,750	102	6,716	3.3	1.0
FY 80	3,075	526,454	1,247	410,058	1,828	116,396	59.4	22.1	505	20,453	16.4	3.9	88	3,917	49	3,675	137	7,592	1.8	1.4
FY 81	2,527	531,477	1,103	413,355	1,424	118,122	56.4	22.2	385	23,585	15.2	4.4	106	6,019	84	6,759	190	12,778	7.5	2.4
FY 82	3,390	694,860	1,710	571,119	1,680	123,740	49.6	17.8	604	32,101	17.8	4.6	69	2,859	98	7,982	167	10,841	4.9	1.6

1/ This table presents all A&E actions (minus R216 marine A&E) that are for other than construction (Item 10C/C2)

MARINE ARCHITECT AND ENGINEERING AWARDS FOR CONSTRUCTION 1/
(AMOUNTS IN THOUSANDS)

	TOTAL A & E		LARGE AND SMALL BUSINESS						SET-ASIDES				SMALL DISADVANTAGED							
			LARGE		SMALL		PCT OF SMALL		SET-ASIDES		PCT OF TOTAL		NON-BA		BA		TOTAL SM-DIS		PCT-TOTAL	
	ACTNS	$(000)	ACTNS	$(000)	ACTNS	$(000)	ACTN	AMT	ACTNS	$(000)	ACTN	AMT	ACTNS/$(000)		ACTNS/$(000)		ACTNS/$(000)		ACTN	AMT
ARMY (Excluding Civil Functions)																				
FY 79	1	250	1	250	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
FY 80	1	17	-	-	1	17	100.0	100.0	-	-	-	-	1	17	-	-	1	17	100.0	100.0
FY 81	1	23	-	-	1	23	100.0	100.0	-	-	-	-	1	23	-	-	1	23	100.0	100.0
FY 82	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
CIVIL FUNCTIONS																				
FY 79	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
FY 80	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
FY 81	2	77	-	-	2	77	100.0	100.0	-	-	-	-	1	27	-	-	1	27	50.0	35.1
FY 82	1	63	-	-	1	63	100.0	100.0	-	-	-	-	-	-	-	-	-	-	-	-
NAVY																				
FY 79	30	948	3	118	27	830	90.0	87.6	1	23	3.3	2.4	2	74	-	-	2	74	6.7	7.8
FY 80	11	501	-	-	11	501	100.0	100.0	3	117	27.3	23.4	-	-	-	-	-	-	-	-
FY 81	13	548	2	44	11	504	84.6	92.0	5	379	38.5	69.2	-	-	-	-	-	-	-	-
FY 82	8	314	-	-	8	314	100.0	100.0	5	225	62.5	71.7	1	55	-	-	1	55	12.5	17.5
TOTAL DOD																				
FY 79	31	1,198	4	368	27	830	87.1	69.3	1	23	3.2	1.9	2	74	-	-	2	74	6.5	6.2
FY 80	12	518	-	-	12	518	100.0	100.0	3	117	25.0	22.6	1	17	-	-	1	17	8.3	3.3
FY 81	16	648	2	44	14	604	87.5	93.2	5	379	31.3	58.5	2	50	-	-	2	50	12.5	7.7
FY 82	9	377	-	-	9	377	100.0	100.0	5	225	55.5	59.7	1	55	-	-	1	55	11.1	14.6

1/ This table shows only R216 actions for construction (Item 10C = C2)

DEPARTMENT OF THE NAVY
MARINE ARCHITECT AND ENGINEERING AWARDS FOR SHIPS
(EXCLUDING NAVAL A&E)
(AMOUNTS IN THOUSANDS)

	TOTAL A & E		LARGE AND SMALL BUSINESS						SET-ASIDES				SMALL DISADVANTAGED							
			LARGE		SMALL		PCT OF SMALL		SET-ASIDES		PCT OF TOTAL		NON-8A		8A		TOTAL SM-DIS		PCT-TOTAL	
	ACTNS	$(000)	ACTNS	$(000)	ACTNS	$(000)	ACTN	AMT	ACTNS	$(000)	ACTN	AMT	ACTNS	$(000)	ACTNS	$(000)	ACTNS	$(000)	ACTN	AMT
NAVY																				
FY 79	487	91,570	215	65,327	259	24,351	53.2	26.6	64	3,635	13.1	4.0	2	124	14	512	16	636	3.3	0.7
FY 80	290	52,236	142	39,516	137	10,423	47.2	20.0	56	3,893	19.3	7.5	2	27	1	-80	2	-53	1.0	0.0
FY 81	273	73,856	139	60,786	121	11,865	44.3	16.1	35	4,288	12.8	5.6	1	130	-	-	1	130	0.4	0.2
FY 82	279	183,180	192	169,929	77	8,937	27.6	4.9	44	3,761	15.8	2.1	2	445	-	-	2	445	0.7	0.2

SMALL BUSINESS PRIME CONTRACT AWARDS
11 MONTHS COMPARATIVE PERFORMANCE

		TOTAL AWARDS	SB AWARDS	%	FY83 GOAL
ARMY	FY 1982	$ 19.845	$ 4.640	23.4	
	FY 1983	21.316	4.952	23.2	↓ 24.4%
NAVY	FY 1982	$ 28.637	$ 3.307	11.5	
	FY 1983	34.737	3.594	10.3	↓ 13.1%
AIR FORCE	FY 1982	$ 24.122	$ 2.799	11.6	
	FY 1983	30.831	2.934	9.5	↓ 12.4%
DLA	FY 1982	$ 11.730	$ 5.510	47.0	
	FY 1983	11.492	5.719	49.8	↑ 48.4%
DOD*	FY 1982	$ 86.096	$16.498	19.2	
	FY 1983	100.767	17.514	17.4	↓ 19.2%

$ = BILLIONS

*DOD TOTALS INCLUDE AWARDS TO OTHER DEFENSE AGENCIES

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SMALL BUSINESS SET ASIDE AWARDS
11 MONTHS COMPARATIVE PERFORMANCE

		TOTAL AWARDS	SA AWARDS	%	FY83 GOAL
ARMY	FY 1982	$ 19.845	$2.623	13.2	
	FY 1983	21.316	2.996	14.1	↑ 14.3%
NAVY	FY 1982	$ 28.637	$1.726	6.0	
	FY 1983	34.737	1.854	5.3	↓ 7.0%
AIR FORCE	FY 1982	$ 24.122	$1.254	5.2	
	FY 1983	30.831	1.237	4.0	↓ 6.0%
DLA	FY 1982	$ 11.730	$2.485	21.2	
	FY 1983	11.492	2.475	21.5	↑ 23.0%
DOD*	FY 1982	$ 86.096	$8.116	9.4	
	FY 1983	100.767	8.607	8.5	↓ 9.9%

$ = BILLIONS

*DOD TOTALS INCLUDE AWARDS TO OTHER DEFENSE AGENCIES

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SMALL DISADVANTAGED BUSINESS AWARDS
11 MONTHS COMPARATIVE PERFORMANCE

			SDB AWARDS				
	TOTAL	AWARDS	8A	DIR	TOTAL	%	
ARMY	FY 1982	$ 19,845	$389.8	$244.7	$ 634.5	3.2	
	FY 1983	$ 21,316	$427.4	$248.8	$ 676.2	3.2	—
NAVY	FY 1982	$ 28,637	$103.3	$139.9	$ 243.2	0.8	↑
	FY 1983	$ 34,737	$147.8	$152.5	$ 300.3	0.9	
AIR FORCE	FY 1982	$ 24,122	$165.3	$108.6	$ 273.9	1.1	↓
	FY 1983	$ 30,831	$182.0	$132.3	$ 314.3	1.0	
DLA	FY 1982	$ 11,730	$267.5	$217.5	$ 485.0	4.1	↓
	FY 1983	$ 11,492	$221.3	$235.8	$ 457.1	4.0	
DOD*	FY 1982	$ 86,096	$930.2	$715.4	$1,645.6	1.9	↓
	FY 1983	$100,767	$981.3	$785.7	$1,767.0	1.8	

$ = MILLIONS

*DOD TOTALS INCLUDE AWARDS TO OTHER DEFENSE AGENCIES

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FY 1983

SMALL DISADVANTAGED BUSINESS PROGRAM CUMULATIVE STATUS REPORT

(OCTOBER 1982 THRU AUGUST 1983)
11 MONTHS

DOLLARS IN MILLIONS

DEPARTMENT/ AGENCY	8 (A) PERFORMANCE	PRIME PERFORMANCE	SUBCONTRACTING PERFORMANCE	TOTAL	DEPARTMENT/ AGENCY GOAL	PERCENTAGE ATTAINMENT
ARMY	427.4	248.8	47.0*	723.2	990.1	73.0
NAVY	147.8	152.5	61.7	362.0	605.1	59.8
AIR FORCE	182.0	132.3	140.6	454.9	552.9	82.3
DLA	221.3	235.8	220.8	677.9	879.0	77.1
OTHER	2.7	16.3	–	19.0	14.6	130.1
TOTAL DOD	981.2	785.7	470.1*	2,237.0	3,041.7	73.5
PROGRAM GOAL	1,389.2	1,016.2	636.3	3,041.7		
PERCENTAGE ATTAINMENT	70.6	77.3	73.9	73.5		

*SUBCONTRACTING STATISTICS REPRESENTS 9 MONTHS OF DATA AS REPORTED BY DOD PRIMES

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WOMEN-OWNED SMALL BUSINESS AWARDS
11 MONTHS COMPARATIVE PERFORMANCE

		TOTAL AWARDS	WOSB AWARDS	%	
ARMY	FY 82	$ 19,845	$139.6	0.7	
	FY 83	21,316	197.8	0.9	↑
NAVY	FY 82	$ 28,637	$ 42.4	0.1	
	FY 83	34,737	64.5	0.2	↑
AIR FORCE	FY 82	$ 24,122	$ 65.7	0.3	
	FY 83	30,831	85.2	0.3	—
DLA	FY 82	$ 11,730	$ 70.6	0.6	
	FY 83	11,492	72.4	0.6	—
DOD*	FY 82	$ 86,096	$322.6	0.4	
	FY 83	100,767	429.7	0.4	—

$ = MILLIONS

*DOD TOTALS INCLUDE AWARDS TO OTHER DEFENSE AGENCIES

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SMALL DISADVANTAGED BUSINESS SUBCONTRACT
THIRD QUARTER COMPARATIVE PERFORMANCE

		TOTAL AWARDS	SDB AWARDS	PERCENT	
ARMY	FY 1982	$ 970	$ 47.6	4.9	
	FY 1983	1,152	47.0	4.1	↓
NAVY	FY 1982	$ 4,417	$ 53.7	1.2	
	FY 1983	5,480	61.7	1.1	↓
AIR FORCE	FY 1982	$ 7,723	$134.6	1.7	
	FY 1983	8,436	140.5	1.7	—
DLA	FY 1982	$12,909	$214.8	1.7	
	FY 1983	14,448	220.8	1.5	↓
DOD	FY 1982	$26,019	$450.6	1.7	
	FY 1983	29,516	470.1	1.6	↓

$ IN MILLIONS

SMALL BUSINESS SUBCONTRACT
THIRD QUARTER COMPARATIVE PERFORMANCE

		TOTAL AWARDS	SB AWARDS	%		FY 83 GOAL
ARMY	FY 1982	$ 970	$ 440	45.4		
	FY 1983	1,152	578	50.1	↑	46.0%
NAVY	FY 1982	$ 4,417	$ 1,263	28.6		
	FY 1983	5,480	1,655	30.2	↑	32.9%
AIR FORCE	FY 1982	$ 7,723	$ 2,387	30.9		
	FY 1983	8,436	2,536	30.1	↓	31.6%
DLA	FY 1982	$12,909	$ 5,720	44.3		
	FY 1983	14,448	6,763	46.8	↑	45.0%
DOD	FY 1982	$26,019	$ 9,810	37.7		
	FY 1983	29,516	11,532	39.1	↑	39.1%

$ IN MILLIONS

Comments on SBA's Proposed Changes To the Size Standards

Petroleum Supplies and Related Services

1. Applicable SIC Codes. The following listing shows the SIC codes that are applicable to petroleum supplies and related services procurements.

SIC Code	Type	Current	Proposed
2911	Petroleum Refining	1500 Emp. 50,000 bbl per day	No change
2992	Lubricating Oils and Greases	500 Emp.	No change
5172	Petroleum Distributors	500 Emp.	$35 Mil
	COAL MINERS, PRODUCERS AND DEALERS		
1111	Anthracite	500 Emp.	No change
1211	Bituminous	500 Emp.	No change
4226	Operation of Government Owned Petroleum Terminal	$7 Mil	$12.5
5171	Operation of Contractor Owned Petroleum Terminal	500 Emp.	$25 Mil
5172	Alongside Aircraft Refueling Military Installation	500 Emp.	$35 Mil
5172	Into-Plane Delivery Commercial Airports and other Services not elsewhere defined in DAR	500 Emp.	$35 Mil
5172	Crude Oil Purchases from Traders	500 Emp.	$35 Mil

2. Impact on Small Business. The proposal to establish small business size standards in the basis of gross revenue dollars per year in lieu of number of employees would impact, if implemented, as follows.

Enclosure #3

a. Petroleum Distributors - many contractors on the PC&S Program would change from small business to large business status based on their DFSC business alone. Many other regular dealers under contract in the PC&S Program would become large business based on their DFSC contract value when combined with gross revenue generated from their commercial business (examples on enclosure).

b. 8a Suppliers - a number of current 8a suppliers in several DFSC procurement programs would disqualify from 8a participation under the proposed standards because their DFSC annual contract value exceeds the proposed criteria (examples on enclosure).

c. Into-Plane - although DFSC small business into-plane contractors do not normally approach the $35 million threshhold on government business, their commercial business is usually very substantial relative to their government contract value. Therefore, on the basis of a $35 million criteria established by gross annual revenues, numerous into-plane dealers will become large business under the proposed criteria (albeit very small margins and very few employees are involved).

Business size standards which are based on number of employees or refinery capacity are more appropriate than gross annual revenue dollars because:

a. Size standards based on number of employees or capacity are more effectively and efficiently monitored than standards based on gross revenues per year or average gross revenues over a three-year period, particularly in the POL business. For example, an into-plane dealer with ten employees will not become a large business (with 500 plus employees) through any sudden transition. However, an into-plane dealer with $25 million in annual gross revenues could become large business (over $35 million) solely because a major airline determines to service the airport, or the same dealer would become small business because the airline decided to discontinue service (the change in number of employees could be only a few, if any).

b. For petroleum distributors, the determinant of size under the proposed criteria could result from fluctuations in weather conditions. If a normal winter generates gross revenues of $30 million for a fuel oil dealer, a cold winter could generate gross revenues of $40 million or vice versa. Using average gross revenues over a three-year period may not rectify this obvious deficiency in the proposed standards.

c. Gross annual revenues in the petroleum business are not necessarily reflective of magnitude of business. For example, a fuel oil dealer generating $20 million in gross revenues in 1979 with 100 employees and $200,000 in profit could generate $40 million in gross revenues in 1980 with no increase in employees, no increase in profit, and no new customers. Petroleum prices doubled and gross revenues only reflected additional revenues to crude oil producers--mainly OPEC. Yet, under the proposed standards the small petroleum distributor would become large. (see attached charts)

The proposed standards will adversely impact DFSC (and DLA) procurement statistics in small business awards and in 8a awards, both in terms of dollars awarded in these categories and number of procurement actions in these categories. This is inappropriate because the examples cited above (dealers, distributors, airport fixed base operators) conduct business with few employees, small profit margins, and minimal capital assets when compared to gross annual revenues. The gross revenues generated are a function of the value of the product being marketed, not on the size of the business operation, in terms of profit generated, employees required, or capital assets.

A business size standard should not be directly dependent on market fluctuations that do not impact directly on the business operation. Under the proposed standards, a business will be subject to a small or large business determination based on an external factor which is not actually related to the size of the business.

3. Impact on DLA Small and Disadvantaged Business Utilization (SADBU) Program. The following listing shows the impact the proposed changes would have on the DLA SADBU Program.

EXAMPLES OF FIRMS CURRENTLY CLASSIFIED AS SMALL BUSINESS WHICH WILL BE LARGE BUSINESS UNDER PROPOSED CRITERIA

Contractor	FY 82 DFSC Contract
Grimes Oil (PC&S)	$ 26,069,103
Citation Oil (other)	24,382,000
G & M Fuel Oil (PC&S)	34,667,163
Great Western (bulk)	41,355,602
Hampton Roads (PC&S)	43,015,371
Industrial Fuel Oil (PC&S)	48,644,286
Jackson Oil (8a Supplier)	38,015,102
Pedroni Fuel (PC&S)	28,086,068
Roarda (PC&S)	126,974,100
Stuart Petroleum (PC&S)	50,640,279
Swann Oil (PC&S)	11,278,059
Vangard (8a)	36,986,782
Wallace & Wallace (PC&S)	31,100,751
Wardoco (bulk)	66,889,506

Contractor	FY 82 DFSC Contract
Apex Oil	$14,428,424
Aloha Petroleum	6,013,832
Almac	5,933,997
Acom Petroleum	7,948,659
Burke Dennis, Inc.	3,394,885
Borne Chemical	7,872,743
Bell Fuel	6,149,080
Colonial Oil	7,378,800
Consumers Oil	9,343,228
Commercial Oil	4,636,657
Colonial Fuel	4,891,674
Cool Fuel	8,057,810
Enterprise Fuel	5,210,458
Enterprise Oil	6,111,596
Ebong Oil (8a)	17,520,032
Express Mkg.	7,416,285
Fuller Oil	14,371,044
LAS Energy	12,077,117
Midland Pet.	7,713,555
McDougalt Oil	9,190,901
National Oil	8,291,604
Petroleum Marketers	4,749,858
Pacific Northern	17,455,519
Prior	5,965,628

Zaroco	6,990,001
ads	6,114,663
Spicer Fuel	5,377,485
Small, Don & Sons	7,338,834
Southern Alcohol	6,513,297
Western Oil	5,655,432
White C.B.	5,743,750

ADDITIONAL EXAMPLES FROM FY 81

Contractor	FY 81 Contract
Apex Oil	$ 23,182,351
Augsbury Corp.	6,188,771
Acorn	5,449,303
Avantra Corp. (other)	3,107,816
Bray Oil	12,204,754
Colonial	7,668,843
Covington Fuel	7,274,147
Cool Fuel	7,386,430
Enterprise Oil & Gas	6,186,599
Ebong Oil (8a)	15,740,000
Fuller Oil	13,036,595
Grimes Oil	21,536,472
G & M Fuel	10,592,458
Gasco Gasoline	5,833,429
Hampton Roads Oil	5,766,185
Imperial Oil (other)	20,510,796
Industrial Fuel	42,517,012
Jackson Oil (8a)	22,902,211
National Oil & Supply	17,840,522
O'Sullivan's Fuel	8,700,520
Phipps (other)	7,640,778
Pacific Northern	11,230,000
Pedroni Fuel	27,462,673
Roarda	126,145,656
Refinery Assoc.	20,176,409
Scotland Oil	16,811,457
Stuart Petroleum	26,721,094
L. H. Smith (8a)	19,928,149
Trio Oil	14,658,955
Tri Par	20,703,627
Vangard (8a)	69,971,785
Waller Petroleum	12,627,260
Wallace & Wallace (8a)	50,733,720
Wardoco (8a)	18,052,143

Based on this limited review of the FY 81 and FY 82 program, it is evident that the revised standard, if adopted, will reduce DFSC's small business dollar awards by approximately one billion dollars annually or eliminate approximately one-third of the total small business dollars.

The above lists are not all-inclusive, but are forwarded for illustration purposes.

Many additional DFSC contractors that sell primarily in the private sector will be classified large business under the proposed size standard, even though the aggregate value of their Government contracts is relatively small.

IPAA WHOLESALE PRICES

U.S. WHOLESALE PRICES OF CRUDE PETROLEUM AND PRINCIPAL PRODUCTS

Refined Products in 8 Refinery Markets

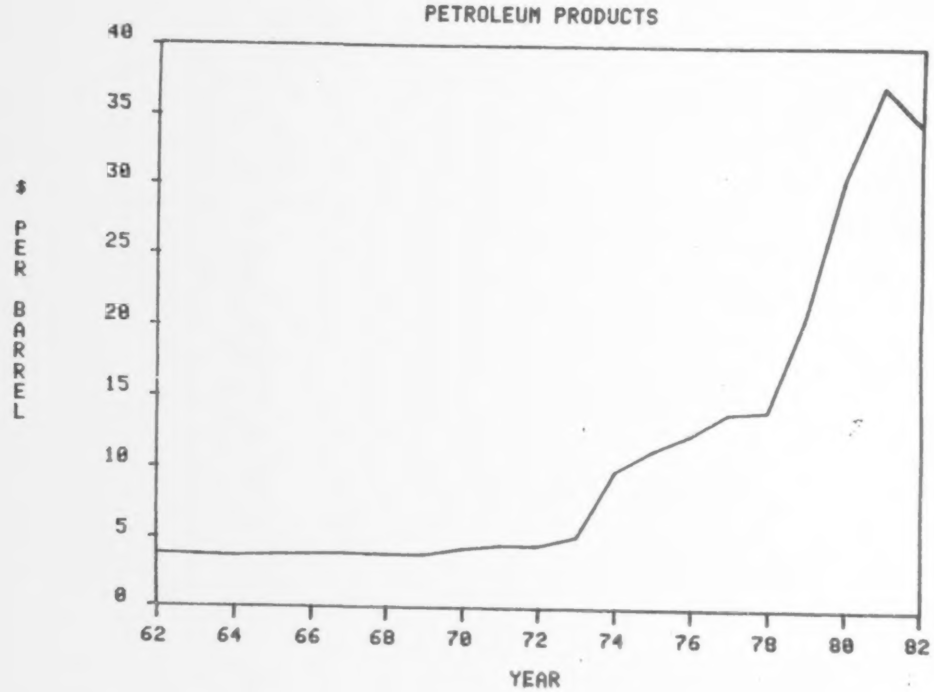
Year	Motor-Gaso. /Gal.	Kero-sine /Gal.	Light Fuel /Gal.	Heavy Fuel /Gal.	Average Four Products		Crude Petroleum $/Bbl.
					/Gal.	$/Bbl.	
1962	11.52	11.42	9.11	4.78	9.13	3.84	2.905
1963	11.35	11.51	9.18	4.61	9.01	3.79	2.894
1964	11.27	10.93	8.65	4.50	8.83	3.71	2.877
1965	11.52	11.28	9.04	4.81	9.12	3.83	2.864
1966	11.59	11.49	9.09	4.73	9.15	3.84	2.882
1967	11.84	11.96	9.71	4.53	9.33	3.92	2.915
1968	11.55	12.03	9.84	4.30	9.14	3.84	2.941
1969	11.80	11.98	10.06	4.20	9.27	3.89	3.092
1970	12.33	12.43	10.45	6.14	10.20	4.28	3.177
1971	12.70	12.90	10.75	7.76	10.94	4.59	3.385
1972	12.70	12.87	10.61	7.60	10.87	4.57	3.388
1973	14.72	14.08	12.61	8.45	12.49	5.25	3.885
1974	25.53	24.02	22.57	20.43	23.48	9.86	6.739
1975	30.27	27.41	26.09	22.03	27.03	11.35	7.560
1976	33.82	31.67	30.38	21.66	29.55	12.41	8.141
1977	36.99	35.81	34.41	25.87	33.21	13.95	8.750
1978	39.22	37.23	35.66	23.00	33.72	14.16	9.000
1979	56.84	56.60	54.47	33.63	49.50	20.79	12.640
1980	87.40	80.26	78.21	44.43	72.77	30.56	21.190
1981	101.63	101.03	97.20	61.17	88.75	37.28	31.770
1982	92.90	97.18	91.95	57.80	82.44	34.62	28.520
1982							
January	95.79	100.88	96.57	57.97	84.81	35.62	30.870
February	92.04	97.65	92.10	56.90	81.78	34.35	29.760
March	87.94	92.97	87.73	55.67	78.48	32.96	28.310
April	85.69	90.78	85.53	55.51	76.87	32.29	27.650
May	90.32	94.73	89.19	56.96	80.36	33.75	27.670
June	96.83	98.67	93.39	58.10	84.78	35.61	28.110
July	98.40	98.74	93.42	58.29	85.64	35.97	28.330
August	96.98	97.36	91.67	56.37	84.02	35.29	28.180
September	95.93	96.47	91.18	58.25	83.94	35.26	27.990
October	94.48	100.48	95.37	59.00	84.27	35.39	28.740
November	92.55	102.31	97.12	62.04	84.57	35.52	28.700
December	87.81	95.16	90.10	58.49	79.72	33.48	27.950
1983							
January	83.86	89.64	84.57	57.32	76.30	32.04	27.220
February	81.72	85.02	79.84	55.82	73.83	31.01	26.410
March	78.68	79.42	74.43	55.20	71.03	29.83	26.050
April	83.32	80.46	75.67	55.71	73.75	30.97	26.000
May	87.17	85.25	80.33	56.87	76.96	32.32	26.000
June							

Refined Product Prices based on low quotations from Platt's Oilgram Price Service. Individual product prices weighted as follows: Oklahoma (16.8%), Midwestern Group (20.8%), New York Harbor (11.2%), Philadelphia (4.0%), Savannah (2.4%), Gulf Coast (22.4%), and Los Angeles (20.0%). Four Product Average weighted as follows: Gasoline 50%, Kerosine 5%, Distillate 15% and Residual Fuel 30%. Annual Crude Price data from Energy Information Administration. Monthly Crude Price data estimated by IPAA based on data published by DOE.

NOTE: This information reflects the trend in oil prices but not the actual sales realization for producers or refiners.

attachment to [illegible] 3

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA
1101 16th Street, N.W., Washington, D.C. 20036


PETROLEUM PRODUCTS
$ PER BARREL
40
35
30
25
20
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5
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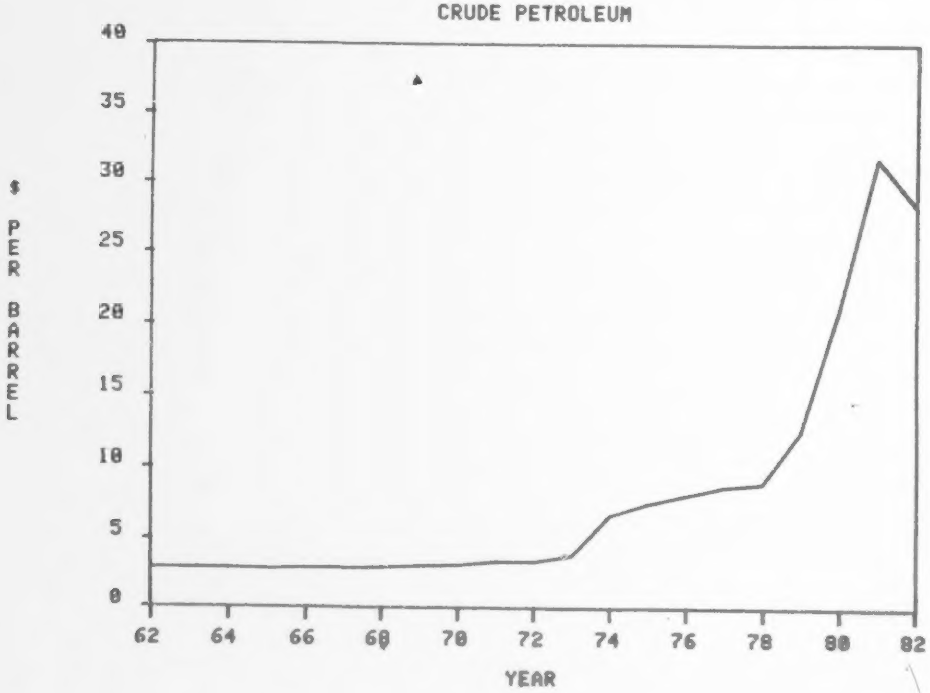
62
64
66
68
70
72
74
76
78
80
82
YEAR


CRUDE PETROLEUM
$ PER BARREL
40
35
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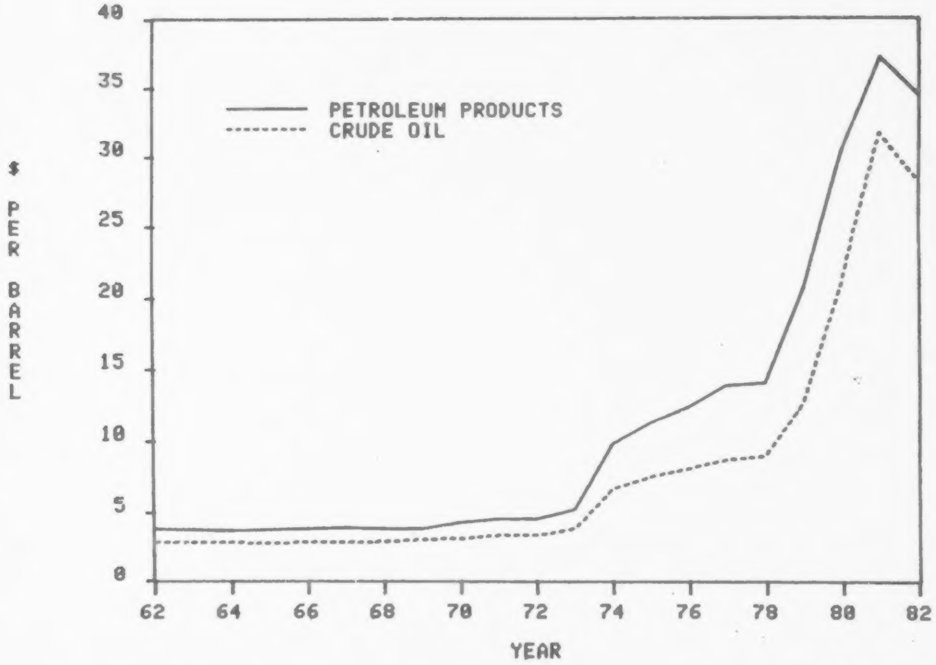

Mr. **Addabbo**. As your statement rightfully points out, the set-asides are—that is, most of the studies show over 80 percent are sole source, which is causing the problem of additional cost. Does DOD agree with the SBA stated reasons for its proposed rule that standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process?

Mr. **Tesko**. I worked at SBA for 3 years in the Prime Contracts Division before coming to my present job. SBA has approximately 4,000 people, which is not high enough, as we believe, should be more people assigned to their procurement area. SBA must utilize their personnel where the greatest payoff is for the small business community which we in DOD depend upon. We are concerned that if they dissipate their assets in a too low area, on one- and two-person operations, they will not help the one that can work in our procurement environment, which is a firm with much more capability that will strengthen our industrial base. To give you a precise answer, I think that they should try to give as much assistance for the clientele as they possibly can.

Mr. **Addabbo**. For the purposes of your department, do the present size standards adequately meet the needs and objectives of the set-aside legislation under the Small Business Act?

Mr. **Tesko**. I think that the proposed size standards, sir, with the recommendations that we made, and we have supplied a copy of this to Mr. Robinson, that this is a step in the right direction to accomplish 95 percent of what we have been looking for. These size standards are much better than the first two proposals which came out that we felt would do a disaster to the small business program.

Mr. **Addabbo**. Thank you very much.

Mr. **Tesko**. Yes, Mr. Chairman.

Mr. **Addabbo**. Mr. Daub.

Mr. **Daub**. Thank you, Joe.

I want to get it clear that you do agree that the dollar size standards should not be $7 million, but this should be $3.5 million?

Mr. **Tesko**. $3.5 million is what we proposed, Mr. Congressman.

Mr. **Daub**. $3.5?

Mr. **Tesko**. Yes.

Mr. **Daub**. For the record, why do you believe that is an adjustment downward is good for that particular industry?

Mr. **Tesko**. In that industry, I think it truly recognizes the concerns of the large A/E firms. I think that it truly recognizes a more accurate appraisal of what the size of the industry firms are that support the Department of Defense, sir.

Mr. **Daub**. But you don't want to see a segmentation of that industry into aerospace or into bridge design or you don't want to see a breakdown that would get into technical qualifications of a firm to do a certain kind of thing because you see something wrong with that, I take it, Mr. Tesko?

Mr. **Tesko**. Not exactly, Congressman Daub.

We went along with the SBA proposal of $3.5 million because of the A/E involved with construction, and that is what my remarks pertain to. We are involved with A/E in naval architecture. That is another industry onto itself. The engineers don't even go to the same colleges and schools. Then there is an A/E industry that is involved with our missile systems and engineering. That is a different size standard. I think it is up to $9 or $12 million. We don't have any objection to that increase. I don't think anybody has come to you objecting about these aspects of A/E. What has long been required is to break out the A/E into those specific three areas. We support that.

Mr. **Daub**. Mr. Chairman, I have no other questions. I appreciate seeing the person who has always been the person behind the person. Thank you very much, Mr. Tesko.

Mr. **Addabbo**. Thank you very much. It has been an honor to have you here again as our primary witness.

Mr. **Tesko**. Thank you.

Mr. **Addabbo**. Our next witness is Gen. C. E. Edgar III, Deputy Director of Civil Works, Corps of Engineers, who is accompanied by E. E. Blalock, Director, Office of Small Disadvantaged Business Utilization.

General **Edgar**. Thank you, Mr. Chairman.

Mr. **Addabbo**. We have your entire statement for the record.

General **Edgar**. Yes, sir. I have submitted the statement for the committee.

Mr. **Addabbo**. We will ask you, in the interest of time, to summarize your statement for the record at this time, General.

General **Edgar**. Yes, sir. To my right was to have been Col. George Kleb, Commander of the Water Resources Support Center. Unfortunately, I regret to say that just before the hearing began, he took ill.

Mr. **Addabbo**. I hope he didn't do that because he heard I was coming.

General **Edgar**. No, sir, he did not. He developed some chest pains. He is now down in the infirmary.

Mr. **Addabbo**. Please proceed with your statement, General.

TESTIMONY OF BRIG. GEN. C. E. EDGAR III, DEPUTY DIRECTOR OF CIVIL WORKS, OFFICE OF THE CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY; ACCOMPANIED BY E. E. BLALOCK, DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION, AND VINCENT MONTANTE, WATER RESOURCES SUPPORT CENTER

General **Edgar**. Mr. Chairman, in place of Colonel Kleb, I am fortunate to have a stalwart from his office, Vincent Montante who is from the Water Resources Support Center. They handle our dredging division.

The corps has supported a small business program even before the passage of the Small Business Act of 1953. In recent years, small business has received about 50 percent of the total dollar amount of the corps contracts on an annual basis.

In fiscal years 1980 and 1981, for instance, the total business contracted by the corps amounted to nearly $6.4 billion. Of this total, $3 billion, or 47 percent, was performed by small business concerns. Of that total amount, $687.6 million was for dredging and $200 million, or 29.1 percent was awarded to small business concerns.

It is worth noting at this point the uniqueness of the dredging industry. It is not only highly capital intensive in terms of equipment requirements, but also involves a limited number of personnel when compared with the general construction industry and includes a relatively few number of firms in comparison to most other industries.

One of the more controversial aspects of the small business program which significantly impacts on the Corps of Engineers mission involves the dredging industry and the associated SBA size standard.

Over the last several months, the corps has received many comments regarding the dredging size standard. Large dredging firms believe the standard should be lowered, while many smaller dredging firms are advocating an increase in the size standard. Now, these comments indicate a significant dichotomy in the industry as to how the current standard should be adjusted.

Further, with these diverse views, it is understandable why the SBA feels that the dredging standard deserves special attention. As a result, the SBA has recently formed an ad hoc committee to survey the entire dredging industry in an attempt to gather sufficient data on which to base an appropriate standard. The SBA has invited the corps and others to participate on this committee. We gladly do so.

The committee is currently completing development of a questionnaire to be sent to the individual dredging companies throughout the country and it expects to complete the survey in January 1984. The questionnaire requests financial information on each dredging company and a listing of the number, type, and size of equipment owned or leased. A recommendation from the ad hoc committee to the SBA on a new dredging size standard is expected in March 1984.

The dredging industry is severely divided under the present single-tiered standard. This situation has resulted in small business dredging firms protesting dredging work advertised on an unrestricted basis. Large dredging firms are protesting the dredging work which is set aside under the SBA program.

In many cases, the time that is required to resolve these protests has significantly delayed the accomplishment of maintenance dredging which is necessary to maintain the safe and efficient navigation channels for the Nation's maritime commerce.

In some cases the dredging of navigation projects has been delayed for an entire year or the dredging work has had to be done during adverse weather with attendant increased costs.

During the past 2 to 2½ years, the number of these protests has escalated sharply and is of great concern to the Corps of Engineers. This is in addition to the extra costs incurred by the Government to resolve these protests. Based on this experience, the corps feels a two-tiered standard, two levels of gross annual receipts averaged over a 3-year period, would only increase the number of protests and further adversely impact our dredging mission.

In summary, the corps endorses and will support the SBA ad hoc committee study. We believe that the collection of factual data accumulated through the SBA committee will lead to the establishment of a proper standard for this industry.

I would like to make it very clear, however, that the corps does not have a position on what the future size standard should be. This determination is solely within the purview of the SBA.

No matter what the SBA determines the size standard should be, the corps will continue to support the SBA program by examining each individual contract to determine if there is reasonable expectation that at least two reasonable bids from two responsible small business firms can be expected and, if so, set that work aside for small business bids.

In addition, we do not support a two-tiered standard, given our experience cited earlier in my testimony, Mr. Chairman.

Last, we recommend that no final size standard for dredging be established until the ad hoc committee completes its study and appropriate recommendations to the SBA are made.

Mr. Chairman, if I might, before I close, knowing your interest and that of Chairman Mitchell, I believe that I would be remiss if I did not inform you that although the final fiscal year 1983 numbers are not known at this time, indications are that the Corps of Engineers has awarded approximately $350 million to the small disadvantaged business community. This amount represents about 10 percent of our total contract business.

Mr. Chairman, this concludes my statement. We will be pleased to respond to any questions you may have.

[General Edgar's prepared statement, with attachments and responses to questions of the subcommittee, follows:]

PREPARED STATEMENT OF BRIG. GEN. C. E. EDGAR III, DEPUTY DIRECTOR OF CIVIL WORKS, OFFICE OF THE CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY

Mr. Chairman, Committee Members, thank you for the invitation to appear before you today. I am Brigadier General Ernest Edgar, Deputy Director of Civil Works for the U.S. Army Corps of Engineers. To my left is Mr. E. E. Blalock, Director, Office of Small and Disadvantaged Business Utilization, Office of the Chief of Engineers. To my right is Colonel George Kleb, Commander and Director of the Water Resources Support Center, a support element under the Corps' Civil Works Directorate, of which the Dredging Division is a part.

The Corps has supported a Small Business Program even before the passage of the Small Business Act of 1953, as amended (15 U. S. C. 631). In recent years, Small Business has received about 50 percent of the total dollar amount of Corps contracts on an annual basis. In Fiscal Years 1980 and 1981 for instance, the total business contracted by the Corps amounted to nearly $6.4 billion. Of this total $3.0 billion or 47 percent was performed by Small Business concerns. Of that total amount, $687.6 million was for dredging and $200 million, or 29.1 percent, was awarded to Small Business concerns.

One of the more controversial aspects of the Small Business Program which significantly impacts the Corps mission, involves the dredging industry and the associated SBA size standard.

The management of the Corps of Engineers National Dredging Program is one of the major missions of the Chief of Engineers. In 1824, Congress assigned the Corps the responsibility for improving and maintaining the navigation channels of the Nation's inland waterways. Since that time, the Corps of Engineers has taken part in the construction, maintenance and improvement of over 25,000 miles of navigable waterways.

These waterways serve 130 of the Nation's 150 largest cities and are utilized to transport about one-fourth of the Nation's ton-miles of domestic cargo. Thus, they are essential to the economic well-being of the Nation. Nearly 60 percent of our waterborne commerce is composed of energy products. Therefore, the waterways are also vital to meet the energy needs of the country.

There are 107 commercial ports and 416 small boat harbors that include Federally authorized channels. The ports and harbors of the Nation handle nearly two billion tons of cargo annually and serve over seven million recreation craft.

It is worth noting at this point the uniqueness of the dredging industry. It is not only highly capital intensive in terms of equipment requirements, but also involves a limited number of personnel when compared with the general construction industry and includes a relatively few number of firms in comparison to most other industries.

Over the last several months, the Corps has received many comments regarding the dredging size standard. Large dredging firms believe the standard should be lowered, while many smaller dredging firms are advocating an increase in the size standard. These comments indicate a significant dichotomy in the industry as to how the current standard should be adjusted. With these diverse views, it is understandable why the SBA feels that the dredging standard deserves special attention. As a result, the SBA has recently formed an ad hoc committee to survey the entire dredging industry in an attempt to gather sufficient data on which to base an appropriate standard. The SBA has invited the Corps of Engineers, the Naval Facilities Engineering Command (NAVFAC) and the Maritime Administration (MARAD) to participate on this committee. The Corps has provided two individuals, representing the Corps' Dredging Division and the Small and Disadvantaged Business Utilization Office, to work with the SBA. NAVFAC and MARAD have each provided one committee member. The committee is currently completing the development of a questionnaire to be sent to individual dredging companies throughout the country and expects to complete the survey in January 1984. The questionnaire requests financial information on each dredging company and a listing of the number, type and size of equipment owned or leased. A recommendation from the ad hoc committee to the SBA on a new dredging size standard is expected in March 1984.

The dredging industry is severely divided under the present single-tiered standard. This situation has resulted in small business dredging firms protesting dredging work advertised on an unrestricted basis and in large dredging firms protesting dredging work which is set aside under the SBA program. In many cases, the time required to resolve these protests has significantly delayed the accomplishment of maintenance dredging which is necessary to maintain safe and efficient navigation channels for the Nation's maritime commerce. In some cases the dredging of navigation projects has been delayed for an entire year or the dredging work has had to be done during adverse weather with attendant increased costs. During the past two to two and one-half years, the number of these protests has escalated sharply and is of great concern to the Corps of Engineers.

This is in addition to the extra costs incurred by the Government to resolve these protests. Based on this experience, the Corps feels a two-tiered standard (i.e. two levels of gross annual receipts averaged over a three year period) would only increase the number of protests and further adversely impact our dredging mission.

In summary, the Corps endorses and will support the SBA ad hoc committee study. We believe that the collection of factual data accumulated through the SBA committee will lead to the establishment of a proper standard for this industry. I would like to make it very clear, however, that the Corps does not have a position on what the future size standard should be, as this determination is solely within the purview of the SBA. No matter what the SBA determines the size standard should be, the Corps will continue to support the SBA program by examining each individual contract to determine if there is reasonable expectation that at least two reasonable bids from two responsible small business firms can be expected and if so, set that work aside for small business bids. In addition, we do not support a two-tiered standard and we recommend that no final size standard for dredging be established until the ad hoc committee completes its study and appropriate recommendations to the SBA are made.

Mr. Chairman, before I close, I would be remiss if I did not inform you that although the final Fiscal Year 1983 numbers are not known at this time, indications are the Corps of Engineers has awarded approximately $350 million to the small disadvantaged business community. This represents around 10% of our total contract business.

Mr. Chairman, this concludes my statement. We will be pleased to respond to any questions you may have.

SOUTHEAST UNITED STATES - NORFOLK, WILMINGTON, CHARLESTON, SAVANNAH AND JACKSONVILLE DISTRICTS

FISCAL YEAR 1982 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
AMERICAN DREDGING INC.	L	1	19336592	0	0	0	0	19336592
NORTH AMERICAN TRAILING CO.	L	6	13156742	0	0	0	0	13156742
PARKHILL-GOODLOE CO., INC.	S	0	0	0	0	7	7724983	7724983
GREAT LAKES DREDGE AND DOCK CO	L	1	7276000	0	0	0	0	7276000
J. A. LAFORTE INC.	S	0	0	1	2086155	3	1936400	4022555
ATKINSON DREDGING COMPANY	S	0	0	0	0	7	3880224	3880224
COTTRELL ENGINEERING CORP	S	0	0	0	0	5	2990727	2990727
NORFOLK DREDGING COMPANY	S	0	0	1	2890510	0	0	2890510
MERRITT DREDGING COMPANY	S	0	0	0	0	2	2335607	2335607
CANONIE OFFSHORE COMPANY	L	1	1798000	0	0	0	0	1798000
SOUTHERN DREDGING COMPANY	S	0	0	0	0	2	1570936	1570936
HENDRY CORP.	S	0	0	0	0	1	1238300	1238300
PROSPERITY DREDGING CO., INC.	S	0	0	0	0	1	1009928	1009928
NORFOLK DREDGING COMPANY	L	1	615343	0	0	0	0	615343
T. L. JAMES & CO., INC.	L	1	556500	0	0	0	0	556500
MERRITT & SOUTHERN DREDGING CO	S	0	0	0	0	1	481300	481300
NORTHAMPTON DREDGING COMPANY	S	0	0	0	0	1	192345	192345
R. D. CONTRACTING CO.	S	0	0	0	0	1	118400	118400
Total		11	42739177	2	4976665	31	23479150	71194992

PACIFIC OCEAN - LOS ANGELES, SAN FRANCISCO, PORTLAND, SEATTLE, ALASKA, WALLA WALLA, AND SACRAMENTO

FISCAL YEAR 1982 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
PETER KIEWIT SONS COMPANY	L	2	47706800	0	0	0	0	47706800
MANSON CONSTR & ENGINEERING CO	L	4	4883700	0	0	0	0	4883700
C. F. BEAN CORPORATION	L	3	3832450	0	0	0	0	3832450
CANONIE PACIFIC	L	1	3599000	0	0	0	0	3599000
WESTERN-PACIFIC DREDGING CO.	L	1	1888000	0	0	0	0	1888000
TERRA CONTRACTING	S	0	0	1	1772500	0	0	1772500
SMITH-RICE	S	0	0	2	1757100	0	0	1757100
BIG HORN CONSTRUCTIUN	L	1	1743140	0	0	0	0	1743140
CANONIE-BULTEMA PACIFIC CORP	L	2	1685740	0	0	0	0	1685740
CALIFORNIA DREDGING	S	0	0	0	0	1	1536513	1536513
J. E. MCAMIS, INC.	S	0	0	0	0	2	1213450	1213450
SHELLMAKER INC.	S	0	0	0	0	1	1144600	1144600
MANSON-OSBERG	L	1	1020000	0	0	0	0	1020000
AMERICAN CONSTRUCTION CO. INC.	S	0	0	0	0	2	769356	769356
COAST MARINE CONSTR., INC.	L	1	747068	0	0	0	0	747068
LAHAINA-HILI	L	1	520000	0	0	0	0	520000
TAMICO, INC.	S	0	0	0	0	1	516650	516650
QUIGG BROS.-MCDONALD	L	1	495000	0	0	0	0	495000
TWIN HARBOR DREDGING	L	1	397000	0	0	0	0	397000
NEHALEM RIVER DREDGING	S	0	0	1	127200	2	213750	340950
NEWPORT DREDGING, CO.	S	0	0	0	0	2	236750	236750
PREFERRED CONTRACTORS	S	0	0	0	0	1	220640	220640
R. & D. WATSON,INC.	S	0	0	0	0	1	207000	207000
A. H. POWERS, INC.	S	0	0	0	0	1	196300	196300
JACKSON MARINE CO.	S	0	0	0	0	1	158600	158600
DILWORTH CONSTRUCTION CO.	S	0	0	0	0	1	127500	127500
Total		19	68517898	4	3656800	16	6541109	78715807

GREAT LAKES - BUFFALO, CHICAGO, AND DETROIT DISTRICTS

FISCAL YEAR 1982 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
NORTH AMERICAN TRAILING CO.	L	8	7993125	0	0	0	0	7993125
GREAT LAKES DREDGE AND DOCK CO	L	3	6495250	0	0	0	0	6495250
LUEDTKE ENGINEERING CO.	S	0	0	3	1197750	1	99250	1297000
ROEN SALVAGE CO.	S	0	0	0	0	1	933966	933966
A-BIRD CONST.	S	0	0	0	0	1	864540	864540
C-WAY CONSTRUCTION CO.	S	0	0	0	0	3	576800	576800
ZENITH DREDGE	S	0	0	0	0	1	469200	469200
DUROCHER DOCK AND DREDGE CO.	S	0	0	0	0	1	196980	196980
IOWA DREDGING	S	0	0	0	0	1	150500	150500
Total		11	14488375	3	1197750	9	3291236	18977361

NORTHEAST - NEW YORK, PHILADELPHIA, BALTIMORE, AND NEW ENGLAND DISTRICTS/DIVISION

FISCAL YEAR 1982 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
GREAT LAKES DREDGE AND DOCK CO	L	5	14491969	0	0	0	0	14491969
AMERICAN DREDGING INC.	L	2	4100475	0	0	0	0	4100475
NORTH AMERICAN TRAILING CO.	L	1	3389565	0	0	0	0	3389565
HYDRO-DREDGE CORP.	S	0	0	2	989834	3	1241380	2231214
COTTRELL ENGINEERING CORP	S	0	0	1	297223	5	1551432	1848655
NORFOLK DREDGING COMPANY	S	0	0	1	1459450	0	0	1459450
WEEKS DREDGING AND CONTRACTING	L	1	1139245	0	0	0	0	1139245
BARNEGAT BAY DREDGING COMPANY	S	0	0	0	0	2	1067350	1067350
ATKINSON DREDGING COMPANY	S	0	0	0	0	1	746900	746900
GIBSON & CUSHMAN DREDGING CORP	S	0	0	0	0	1	739318	739318
C.J. LANGENFELDER & SONS	L	1	470870	0	0	0	0	470870
BLOOMINGDALE CONSTRUCTION CO.	S	0	0	0	0	1	272474	272474
CECIL CONSTRUCTION CO.	S	0	0	0	0	1	187500	187500
FAIRHAVEN MARINE, INC.	S	0	0	0	0	1	166650	166650
MCKIE COMPANY	S	0	0	0	0	1	152124	152124
Total		10	23592124	4	2746507	16	6125128	32463759

GULF COAST = MOBILE, NEW ORLEANS, AND GALVESTON DISTRICTS

FISCAL YEAR 1982 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NCT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
T. L. JAMES & CO., INC.	L	9	16615287	0	0	0	0	16615287
WILLIAMS-MCWILLIAMS CO.	L	7	9030915	0	0	0	0	9030915
MIKE HOOKS, INC.	L	5	6673691	0	0	0	0	6673691
BEAN DREDG & GREAT LAKES D & D	L	1	5949500	0	0	0	0	5949500
LOYD RICHARDSON	S	0	0	2	3866753	1	1673648	5540401
WILLIAM-MCWILLIAMS/TL JAMES	L	1	4817660	0	0	0	0	4817660
STUYVESANT DREDGING COMPANY	L	2	3753480	0	0	0	0	3753480
KING FISHER MARINE SERVICES	L	4	3632585	0	0	0	0	3632585
C. F. BEAN CORPORATION	L	1	2671900	0	0	0	0	2671900
NORTH AMERICAN TRAILING CO.	L	1	2452000	0	0	0	0	2452000
HENDRY CORP.	S	0	0	1	2387697	0	0	2387697
GARRETT CONSTRUCTION COMPANY	S	0	0	1	1418816	0	0	1418816
MIKEN CONSTRUCTION CO.	S	0	0	1	1200000	0	0	1200000
MERRITT DREDGING COMPANY	S	0	0	1	734000	0	0	734000
COBO SERVICES, INC.	S	0	0	0	0	1	535575	535575
KING FISHER MARINE SERVICES	S	0	0	1	484715	0	0	484715
POTASHNICK-HARRISON CONST. CO.	S	0	0	0	0	1	386000	386000
LAND COAST INSULLATION	S	0	0	1	369780	0	0	369780
GENERAL DREDGING, INC.	S	0	0	0	0	1	72464	72464
Total		31	55597018	8	10461761	4	2667687	68726466

INLAND - VICKSBURG,MEMPHIS,ROCK ISLAND,ST. PAUL,TULSA,PITTSBURGH,LOUISVILLE AND LITTLE ROCK

FISCAL YEAR 1982 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
FOLK CONSTR. CO., INC.	S	0	0	1	10953154	0	0	10953154
S. J. COHEN COMPANY	S	0	0	0	0	1	10116256	10116256
R. CLINTON CONSTRUCTION	S	0	0	1	4532316	0	0	4532316
T. L. JAMES & CO., INC.	L	1	4185345	0	0	0	0	4185345
LUHR BROS., INC.	L	1	3747328	0	0	0	0	3747328
C. F. BEAN CORPORATION	L	1	3126400	0	0	0	0	3126400
ACTON CONSTRUCTION	L	1	2676304	0	0	0	0	2676304
WILLIAMS-MCWILLIAMS CO.	L	1	1462065	0	0	0	0	1462065
ARKANSAS VALLEY DREDGING CO.	S	0	0	1	412980	1	912463	1325443
PINE BLUFF SAND AND GRAVEL CO.	L	1	1293670	0	0	0	0	1293670
ROBERS DREDGE	S	0	0	0	0	1	394278	394278
CRAIN BROTHERS, INC.	S	0	0	0	0	1	344320	344320
OKLAHOMA DREDGING COMPANY	S	0	0	0	0	1	278200	278200
LUEDTKE ENGINEERING CO.	S	0	0	0	0	1	229500	229500
C. R. O. CONTRACTING	S	0	0	0	0	1	173694	173694
R. O. CONTRACTING CO.	S	0	0	0	0	1	114600	114600
COMMONWEALTH STONE, INC.	S	0	0	0	0	1	48150	48150
Total		6	16491112	3	15898450	9	12611461	45001023

SOUTHEAST UNITED STATES - NORFOLK, WILMINGTON, CHARLESTON, SAVANNAH AND JACKSONVILLE DISTRICTS

FISCAL YEAR 1983 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
NORTH AMERICAN TRAILING CO.	L	7	16168192	0	0	0	0	16168192
SOUTHERN DREDGING COMPANY	S	0	0	0	0	7	10648046	10648046
ATKINSON DREDGING COMPANY	S	0	0	0	0	7	6241181	6241181
J. A. LAPORTE INC.	S	0	0	0	0	2	5749615	5749615
MERRITT DREDGING COMPANY	S	0	0	0	0	4	2256558	2256558
T. L. JAMES & CO., INC.	L	1	1985000	0	0	0	0	1985000
COTTRELL ENGINEERING CORP	S	0	0	0	0	4	1755901	1755901
CONSTRUCCIONES JOSE CARRO, IC	S	0	0	0	0	1	1241550	1241550
C-WAY CONSTRUCTION CO.	S	0	0	0	0	1	988000	988000
CANONIE OFFSHORE COMPANY	L	1	964100	0	0	0	0	964100
HYDRO-DREDGE CORP.	S	0	0	1	536740	0	0	536740
FLYIN GOOSE CORP.	S	0	0	0	0	1	136489	136489
J.M. FURR LANDSCAPING CONTRACT	S	0	0	0	0	1	97500	97500
Total		9	19117292	1	536740	28	29114840	48768872

PACIFIC OCEAN - LOS ANGELES, SAN FRANCISCO, PORTLAND, SEATTLE, ALASKA, WALLA WALLA, AND SACRAMENTO

FISCAL YEAR 1983 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
SHELLMAKER INC.	S	0	0	6	9609394	1	1286390	10895784
RIEDEL INTERNATIONAL, INC.	L	4	8514000	0	0	0	0	8514000
MANSON CONSTR & ENGINEERING CO	L	4	6646550	0	0	0	0	6646550
M. A. SEGALE, INC.	L	2	5515400	0	0	0	0	5515400
WESTERN-PACIFIC DREDGING CO.	L	2	5424000	0	0	0	0	5424000
C. MOORER CONSTR. INC.	S	0	0	1	4267500	0	0	4267500
NORTH AMERICAN TRAILING CO.	L	2	4095750	0	0	0	0	4095750
R. & D. WATSON,INC.	S	0	0	1	3210000	0	0	3210000
WCC, INC.	L	1	3145000	0	0	0	0	3145000
WESTERN MARINE CONSTRUCTION	S	0	0	0	0	1	2213900	2213900
BRECHAN ENTERPRISES, INC.	S	0	0	1	2183500	0	0	2183500
CANONIE OFFSHORE COMPANY	L	1	1899000	0	0	0	0	1899000
OSBERG CONSTRUCTION	S	0	0	1	1876000	0	0	1876000
AQUA MARINE	S	0	0	0	0	1	1727163	1727163
SMITH-RICE	S	0	0	1	1687500	0	0	1687500
MANSON-OSBERG	L	1	1572000	0	0	0	0	1572000
BLACK CONSTRUCTION CORP.	L	1	1349500	0	0	0	0	1349500
COAST MARINE CONSTR., INC.	L	1	1212000	0	0	0	0	1212000
GENERAL CONSTRUCTION COMPANY	L	1	1076000	0	0	0	0	1076000
PHOENIX DREDGING	S	0	0	0	0	1	988500	988500
CANONIE-BULTEMA PACIFIC CORP	L	1	974000	0	0	0	0	974000
NEHALEM RIVER DREDGING	S	0	0	0	0	4	713700	713700
AMERICAN CONSTRUCTION CO. INC.	S	0	0	0	0	2	674700	674700
PEPIOT FOREST CONTRACTORS, INC	S	0	0	0	0	1	461850	461850
MARINE CONSTRUCTION AND DREDGI	S	0	0	0	0	1	269269	269269
SCARSELLA BROS., INC.	S	0	0	0	0	1	164450	164450
SANDAU DREDGING CO.	S	0	0	0	0	1	151300	151300
PORTABLE HYDRAULIC DREDGING	S	0	0	0	0	1	81853	81853
A. H. POWERS, INC.	S	0	0	0	0	1	81800	81800
NEWPORT DREDGING, CO.	S	0	0	0	0	1	38800	38800
Total		21	41423200	11	22833894	17	8853675	73110769

GREAT LAKES - BUFFALO, CHICAGO, AND DETROIT DISTRICTS

FISCAL YEAR 1983 WATER REBOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
NORTH AMERICAN TRAILING CO.	L	3	4330475	0	0	0	0	4330475
GREAT LAKES DREDGE AND DOCK CO	L	2	1356500	0	0	0	0	1356500
DUNBAR & SULLIVAN	S	0	0	1	573750	1	227000	800750
MCMULLEN AND PITZ CONST. CO.	S	0	0	0	0	1	787369	787369
ZENITH DREDGE	S	0	0	0	0	1	749185	749185
LUEDTKE ENGINEERING CO.	S	0	0	1	698750	0	0	698750
HARBOR MARINE	S	0	0	0	0	3	547827	547827
LAKESHORE CONST.	S	0	0	0	0	2	495755	495755
DUROCHER DOCK AND DREDGE CO.	S	0	0	0	0	1	357800	357800
MAGRUDER CONSTRUCTION	S	0	0	0	0	1	247500	247500
LAKE CONST. CO.	S	0	0	0	0	1	139810	139810
MARINE CONTRACTING	S	0	0	0	0	1	117500	117500
TWIN CITIES DRYDOCK & MARINE	S	0	0	0	0	1	94942	94942
Total		5	5686975	2	1272500	13	3764688	10724163

NORTHEAST - NEW YORK, PHILADELPHIA, BALTIMORE, AND NEW ENGLAND DISTRICTS/DIVISION

FISCAL YEAR 1983 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
AMERICAN DREDGING INC.	L	7	16383395	0	0	0	0	16383395
HENRY DUBOIS' SONS INC.	L	1	9100000	0	0	0	0	9100000
WEEKS DREDGING AND CONTRACTING	L	4	8940757	0	0	0	0	8940757
NORFOLK DREDGING COMPANY	L	3	3847084	0	0	0	0	3847084
GREAT LAKES DREDGE AND DOCK CO	L	2	3660354	0	0	0	0	3660354
J. M. CASHMAN, INC.	S	0	0	2	1838850	0	0	1838850
HYDRO-DREDGE CORP.	S	0	0	1	712840	2	255690	968530
PAZ BROTHERS, INC.	S	0	0	0	0	1	875831	875831
CIANBRO CORP.	L	1	660800	0	0	0	0	660800
COTTRELL ENGINEERING CORP	S	0	0	0	0	1	644004	644004
BARNEGAT BAY DREDGING COMPANY	S	0	0	0	0	1	636520	636520
T. L. JAMES & CO., INC.	L	1	630000	0	0	0	0	630000
BLOOMINGDALE CONSTRUCTION CO.	S	0	0	0	0	2	430649	430649
CECIL CONSTRUCTION CO.	S	0	0	0	0	1	297400	297400
GWIN DREDGING CO.	S	0	0	0	0	1	244300	244300
DEAN KING, THE KING CO.	S	0	0	0	0	1	168000	168000
FLYIN GOOSE CORP.	S	0	0	0	0	1	74800	74800
INNER SPACE SERVICES, INC.	S	0	0	0	0	1	22905	22905
JOHN GIBLIN/MARINE SERVICES	S	0	0	0	0	1	22830	22830
WILLIAM WAHLEFIELD/ ATLAN E S	S	0	0	0	0	1	16985	16985
Total		19	43222390	3	2551690	14	3689914	49463994

GULF COAST = MOBILE, NEW ORLEANS, AND GALVESTON DISTRICTS

FISCAL YEAR 1983 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
MIKE HOOKS, INC.	L	5	13829000	0	0	0	0	13829000
C. F. BEAN CORPORATION	L	6	13536085	0	0	0	0	13536085
T. L. JAMES & CO., INC.	L	7	13068845	0	0	0	0	13068845
WILLIAMS-MCWILLIAMS CO.	L	9	12382243	0	0	0	0	12382243
STUYVESANT DREDGING COMPANY	L	4	9358007	0	0	0	0	9358007
HENDRY CORP.	S	0	0	3	5578746	1	1974100	7552846
WILLIAM-MCWILLIAMS/TL JAMES	L	1	5345000	0	0	0	0	5345000
GREAT LAKES DREDGE AND DOCK CO	L	2	4900895	0	0	0	0	4900895
KING FISHER MARINE SERVICES	L	3	4190090	0	0	0	0	4190090
MERRITT DREDGING COMPANY	S	0	0	2	2699849	0	0	2699849
WEEKS DREDGING AND CONTRACTING	L	1	2388020	0	0	0	0	2388020
LOYD RICHARDSON	S	0	0	1	1908756	0	0	1908756
POTASHNICK	L	1	1336210	0	0	0	0	1336210
NORTH AMERICAN TRAILING CO.	L	1	975950	0	0	0	0	975950
M.C.M. DREDGING SVC., INC.	S	0	0	1	469457	1	244977	714434
GARRETT CONSTRUCTION COMPANY	S	0	0	1	707137	0	0	707137
GENERAL DREDGING, INC.	S	0	0	1	123590	0	0	123590
SHORELINE DREDGING & CONSTR.	S	0	0	0	0	1	36500	36500
Total		40	81310345	9	11487535	3	2255577	95053457

INLAND - VICKSBURG,MEMPHIS,ROCK ISLAND,ST. PAUL,TULSA,PITTSBURGH,LOUISVILLE AND LITTLE ROCK

FISCAL YEAR 1983 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
COTTON BELT GRAVEL CO.	S	0	0	0	0	2	10561448	10561448
S. J. COHEN COMPANY	S	0	0	0	0	1	8808075	8808075
POTASHNICK & AETNA SURETY	L	1	7979000	0	0	0	0	7979000
MGL CONST., INC.	S	0	0	0	0	1	4987800	4987800
C. F. BEAN CORPORATION	L	1	4743044	0	0	0	0	4743044
LUHR BROS., INC.	L	1	4082681	0	0	0	0	4082681
WILLIAMS-MCWILLIAMS CO.	L	1	3368760	0	0	0	0	3368760
ROBERS DREDGE	S	0	0	1	2498624	0	0	2498624
ARKANSAS VALLEY DREDGING CO.	S	0	0	3	1156560	1	892900	2049460
T. L. JAMES & CO., INC.	L	1	1220452	0	0	0	0	1220452
D. H. BLATTNER & SONS	L	1	439840	0	0	0	0	439840
MEANS BROTHERS	S	0	0	0	0	1	229450	229450
CHARLES J. MERLO, INC.	S	0	0	0	0	1	211410	211410
SOUTER CONSTRUCTION COMPANY	S	0	0	0	0	1	125000	125000
SOUTHWIND CONSTRUCTION CORP.	S	0	0	0	0	1	116485	116485
Total		6	21833777	4	3655184	9	25932568	51421529

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FISCAL YEAR 1982 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
PETER KIEWIT SONS COMPANY	L	2	47706800	0	0	0	0	47706800
GREAT LAKES DREDGE AND DOCK CO	L	9	28263219	0	0	0	0	28263219
NORTH AMERICAN TRAILING CO.	L	16	26991432	0	0	0	0	26991432
AMERICAN DREDGING INC.	L	3	23437067	0	0	0	0	23437067
T. L. JAMES & CO., INC.	L	11	21357132	0	0	0	0	21357132
FOLK CONSTR. CO., INC.	S	0	0	1	10953154	0	0	10953154
WILLIAMS-MCWILLIAMS CO.	L	8	10492980	0	0	0	0	10492980
S. J. COHEN COMPANY	S	0	0	0	0	1	10116256	10116256
C. F. BEAN CORPORATION	L	5	9630750	0	0	0	0	9630750
PARKHILL-GOODLOE CO., INC.	S	0	0	0	0	7	7724983	7724983
MIKE HOOKS, INC.	L	5	6673691	0	0	0	0	6673691
BEAN DREDG & GREAT LAKES D & D	L	1	5949500	0	0	0	0	5949500
LOYD RICHARDSON	S	0	0	2	3866753	1	1673648	5540401
MANSON CONSTR & ENGINEERING CO	L	4	4883700	0	0	0	0	4883700
COTTRELL ENGINEERING CORP	S	0	0	1	297223	10	4542159	4839382
WILLIAM-MCWILLIAMS/TL JAMES	L	1	4817660	0	0	0	0	4817660
ATKINSON DREDGING COMPANY	S	0	0	0	0	8	4627124	4627124
R. CLINTON CONSTRUCTION	S	0	0	1	4532316	0	0	4532316
NORFOLK DREDGING COMPANY	S	0	0	2	4349960	0	0	4349960
J. A. LAPORTE INC.	S	0	0	1	2086155	3	1936400	4022555
STUYVESANT DREDGING COMPANY	L	2	3753480	0	0	0	0	3753480
LUHR BROS., INC.	L	1	3747328	0	0	0	0	3747328
KING FISHER MARINE SERVICES	L	4	3632585	0	0	0	0	3632585
HENDRY CORP.	S	0	0	1	2387697	1	1238300	3625997
CANONIE PACIFIC	L	1	3599000	0	0	0	0	3599000
MERRITT DREDGING COMPANY	S	0	0	1	734000	2	2335607	3069607
ACTON CONSTRUCTION	L	1	2676304	0	0	0	0	2676304
HYDRO-DREDGE CORP.	S	0	0	2	989834	3	1241380	2231214
WESTERN-PACIFIC DREDGING CO.	L	1	1888000	0	0	0	0	1888000
CANONIE OFFSHORE COMPANY	L	1	1798000	0	0	0	0	1798000
TERRA CONTRACTING	S	0	0	1	1772500	0	0	1772500
SMITH-RICE	S	0	0	2	1757100	0	0	1757100
BIG HORN CONSTRUCTION	L	1	1743140	0	0	0	0	1743140
CANONIE-BULTEMA PACIFIC CORP	L	2	1685740	0	0	0	0	1685740
SOUTHERN DREDGING COMPANY	S	0	0	0	0	2	1570936	1570936
CALIFORNIA DREDGING	S	0	0	0	0	1	1536513	1536513
LUEDTKE ENGINEERING CO.	S	0	0	3	1197750	2	328750	1526500
GARRETT CONSTRUCTION COMPANY	S	0	0	1	1418816	0	0	1418816
ARKANSAS VALLEY DREDGING CO.	S	0	0	1	412980	1	912463	1325443
PINE BLUFF SAND AND GRAVEL CO.	L	1	1293670	0	0	0	0	1293670
J. E. MCAMIS, INC.	S	0	0	0	0	2	1213450	1213450
MIKEN CONSTRUCTION CO.	S	0	0	1	1200000	0	0	1200000
SHELLMAKER INC.	S	0	0	0	0	1	1144600	1144600

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WEEKS DREDGING AND CONTRACTING	L	1	1139245	0	0	0	0	1139245
BARNEGAT BAY DREDGING COMPANY	S	0	0	0	0	2	1067350	1067350
MANSON-OSBERG	L	1	1020000	0	0	0	0	1020000
PROSPERITY DREDGING CO., INC.	S	0	0	0	0	1	1009928	1009928
ROEN SALVAGE CO.	S	0	0	0	0	1	933966	933966
A-BIRD CONST.	S	0	0	0	0	1	864540	864540
AMERICAN CONSTRUCTION CO. INC.	S	0	0	0	0	2	769356	769356
COAST MARINE CONSTR., INC.	L	1	747068	0	0	0	0	747068
GIBSON & CUSHMAN DREDGING CORP	S	0	0	0	0	1	739318	739318
NORFOLK DREDGING COMPANY	L	1	615343	0	0	0	0	615343
C-WAY CONSTRUCTION CO.	S	0	0	0	0	3	576800	576800
COBO SERVICES, INC.	S	0	0	0	0	1	535575	535575
LAHAINA-HILI	L	1	520000	0	0	0	0	520000
TAMICO, INC.	S	0	0	0	0	1	516650	516650
QUIGG BROS.-MCDONALD	L	1	495000	0	0	0	0	495000
KING FISHER MARINE SERVICES	S	0	0	1	484715	0	0	484715
MERRITT & SOUTHERN DREDGING CO	S	0	0	0	0	1	481300	481300
C.J. LANGENFELDER & SONS	L	1	470870	0	0	0	0	470870
ZENITH DREDGE	S	0	0	0	0	1	469200	469200
TWIN HARBOR DREDGING	L	1	397000	0	0	0	0	397000
ROBERS DREDGE	S	0	0	0	0	1	394278	394278
POTASHNICK-HARRISON CONST. CO.	S	0	0	0	0	1	386000	386000
LAND COAST INSULLATION	S	0	0	1	369780	0	0	369780
CRAIN BROTHERS, INC.	S	0	0	0	0	1	344320	344320
NEHALEM RIVER DREDGING	S	0	0	1	127200	2	213750	340950
OKLAHOMA DREDGING COMPANY	S	0	0	0	0	1	278200	278200
BLOOMINGDALE CONSTRUCTION CO.	S	0	0	0	0	1	272474	272474
NEWPORT DREDGING, CO.	S	0	0	0	0	2	236750	236750
R. O. CONTRACTING CO.	S	0	0	0	0	2	233000	233000
PREFERRED CONTRACTORS	S	0	0	0	0	1	220640	220640
R. & D. WATSON,INC.	S	0	0	0	0	1	207000	207000
DUROCHER DOCK AND DREDGE CO.	S	0	0	0	0	1	196980	196980
A. H. POWERS, INC.	S	0	0	0	0	1	196300	196300
NORTHAMPTON DREDGING COMPANY	S	0	0	0	0	1	192345	192345
CECIL CONSTRUCTION CO.	S	0	0	0	0	1	187500	187500
C. R. O. CONTRACTING	S	0	0	0	0	1	173694	173694
FAIRHAVEN MARINE, INC.	S	0	0	0	0	1	166650	166650
JACKSON MARINE CO.	S	0	0	0	0	1	158600	158600
MCKIE COMPANY	S	0	0	0	0	1	152124	152124
IOWA DREDGING	S	0	0	0	0	1	150500	150500
DILWORTH CONSTRUCTION CO.	S	0	0	0	0	1	127500	127500
GENERAL DREDGING, INC.	S	0	0	0	0	1	72464	72464
COMMONWEALTH STONE, INC.	S	0	0	0	0	1	48150	48150
Total		88	221425704	24	38937933	85	54715771	315079408

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FISCAL YEAR 1983 WATER RESOUCES SUPPORT CENTER - DREDGING DIVISION 9 DECEMBER 1983

FIRM NAME	SIZE	LARGE COUNT	LARGE DOLLARS	SMALL NOT SETASIDE COUNT	SMALL NOT SETASIDE DOLLARS	SMALL SETASIDE COUNT	SMALL SETASIDE DOLLARS	TOTAL DOLLARS
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXX	XXXXXXXX	XXXXXXXX
NORTH AMERICAN TRAILING CO.	L	13	25570367	0	0	0	0	25570367
C. F. BEAN CORPORATION	L	7	18279129	0	0	0	0	18279129
T. L. JAMES & CO., INC.	L	10	16904297	0	0	0	0	16904297
AMERICAN DREDGING INC.	L	7	16383395	0	0	0	0	16383395
WILLIAMS-MCWILLIAMS CO.	L	10	15751003	0	0	0	0	15751003
MIKE HOOKS, INC.	L	5	13829000	0	0	0	0	13829000
WEEKS DREDGING AND CONTRACTING	L	5	11328777	0	0	0	0	11328777
SHELLMAKER INC.	S	0	0	6	9609394	1	1286390	10895784
SOUTHERN DREDGING COMPANY	S	0	0	0	0	7	10648046	10648046
COTTON BELT GRAVEL CO.	S	0	0	0	0	2	10561448	10561448
GREAT LAKES DREDGE AND DOCK CO	L	6	9917749	0	0	0	0	9917749
STUYVESANT DREDGING COMPANY	L	4	9358007	0	0	0	0	9358007
HENRY DUBOIS' SONS INC.	L	1	9100000	0	0	0	0	9100000
S. J. COHEN COMPANY	S	0	0	0	0	1	8808075	8808075
RIEDEL INTERNATIONAL, INC.	L	4	8514000	0	0	0	0	8514000
POTASHNICK & AETNA SURETY	L	1	7979000	0	0	0	0	7979000
HENDRY CORP.	S	0	0	3	5578746	1	1974100	7552846
MANSON CONSTR & ENGINEERING CO	L	4	6646550	0	0	0	0	6646550
ATKINSON DREDGING COMPANY	S	0	0	0	0	7	6241181	6241181
J. A. LAPORTE INC.	S	0	0	0	0	2	5749615	5749615
M. A. SEGALE, INC.	L	2	5515400	0	0	0	0	5515400
WESTERN-PACIFIC DREDGING CO.	L	2	5424000	0	0	0	0	5424000
WILLIAM-MCWILLIAMS/TL JAMES	L	1	5345000	0	0	0	0	5345000
MGL CONST., INC.	S	0	0	0	0	1	4987800	4987800
MERRITT DREDGING COMPANY	S	0	0	2	2699849	4	2256558	4956407
C. MOORER CONSTR. INC.	S	0	0	1	4267500	0	0	4267500
KING FISHER MARINE SERVICES	L	3	4190090	0	0	0	0	4190090
LUHR BROS., INC.	L	1	4082681	0	0	0	0	4082681
NORFOLK DREDGING COMPANY	L	3	3847084	0	0	0	0	3847084
R. & D. WATSON, INC.	S	0	0	1	3210000	0	0	3210000
WCC, INC.	L	1	3145000	0	0	0	0	3145000
CANONIE OFFSHORE COMPANY	L	2	2863100	0	0	0	0	2863100
ROBERS DREDGE	S	0	0	1	2498624	0	0	2498624
COTTRELL ENGINEERING CORP	S	0	0	0	0	5	2399905	2399905
WESTERN MARINE CONSTRUCTION	S	0	0	0	0	1	2213900	2213900
BRECHAN ENTERPRISES, INC.	S	0	0	1	2183500	0	0	2183500
ARKANSAS VALLEY DREDGING CO.	S	0	0	3	1156560	1	892900	2049460
LOYD RICHARDSON	S	0	0	1	1908756	0	0	1908756
OSBERG CONSTRUCTION	S	0	0	1	1876000	0	0	1876000
J. M. CASHMAN, INC.	S	0	0	2	1838850	0	0	1838850
AQUA MARINE	S	0	0	0	0	1	1727163	1727163
SMITH-RICE	S	0	0	1	1687500	0	0	1687500
MANSON-OSBERG	L	1	1572000	0	0	0	0	1572000

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HYDRO-DREDGE CORP.	S	0	0	2	1249580	2	255690	1505270
BLACK CONSTRUCTION CORP.	L	1	1349500	0	0	0	0	1349500
POTASHNICK	L	1	1336210	0	0	0	0	1336210
CONSTRUCCIONES JOSE CARRO, IC	S	0	0	0	0	1	1241550	1241550
COAST MARINE CONSTR., INC.	L	1	1212000	0	0	0	0	1212000
GENERAL CONSTRUCTION COMPANY	L	1	1076000	0	0	0	0	1076000
PHOENIX DREDGING	S	0	0	0	0	1	988500	988500
C-WAY CONSTRUCTION CO.	S	0	0	0	0	1	988000	988000
CANONIE-BULTEMA PACIFIC CORP	L	1	974000	0	0	0	0	974000
PAZ BROTHERS, INC.	S	0	0	0	0	1	875831	875831
DUNBAR & SULLIVAN	S	0	0	1	573750	1	227000	800750
MCMULLEN AND PITZ CONST. CO.	S	0	0	0	0	1	787369	787369
ZENITH DREDGE	S	0	0	0	0	1	749185	749185
M.C.M. DREDGING SVC., INC.	S	0	0	1	469457	1	244977	714434
NEHALEM RIVER DREDGING	S	0	0	0	0	4	713700	713700
GARRETT CONSTRUCTION COMPANY	S	0	0	1	707137	0	0	707137
LUEDTKE ENGINEERING CO.	S	0	0	1	698750	0	0	698750
AMERICAN CONSTRUCTION CO. INC.	S	0	0	0	0	2	674700	674700
CIANBRO CORP.	L	1	660800	0	0	0	0	660800
BARNEGAT BAY DREDGING COMPANY	S	0	0	0	0	1	636520	636520
HARBOR MARINE	S	0	0	0	0	3	547827	547827
LAKESHORE CONST.	S	0	0	0	0	2	495755	495755
PEPIOT FOREST CONTRACTORS, INC	S	0	0	0	0	1	461850	461850
D. H. BLATTNER & SONS	L	1	439840	0	0	0	0	439840
BLOOMINGDALE CONSTRUCTION CO.	S	0	0	0	0	2	430649	430649
DUROCHER DOCK AND DREDGE CO.	S	0	0	0	0	1	357800	357800
CECIL CONSTRUCTION CO.	S	0	0	0	0	1	297400	297400
MARINE CONSTRUCTION AND DREDGI	S	0	0	0	0	1	269269	269269
MAGRUDER CONSTRUCTION	S	0	0	0	0	1	247500	247500
GWIN DREDGING CO.	S	0	0	0	0	1	244300	244300
MEANS BROTHERS	S	0	0	0	0	1	229450	229450
CHARLES J. MERLO, INC.	S	0	0	0	0	1	211410	211410
FLYIN GOOSE CORP.	S	0	0	0	0	2	211289	211289
DEAN KING, THE KING CO.	S	0	0	0	0	1	168000	168000
SCARSELLA BROS., INC.	S	0	0	0	0	1	164450	164450
SANDAU DREDGING CO.	S	0	0	0	0	1	151300	151300
LAKE CONST. CO.	S	0	0	0	0	1	139810	139810
SOUTER CONSTRUCTION COMPANY	S	0	0	0	0	1	125000	125000
GENERAL DREDGING, INC.	S	0	0	1	123590	0	0	123590
MARINE CONTRACTING	S	0	0	0	0	1	117500	117500
SOUTHWIND CONSTRUCTION CORP.	S	0	0	0	0	1	116485	116485
J.M. FURR LANDSCAPING CONTRACT	S	0	0	0	0	1	97500	97500
TWIN CITIES DRYDOCK & MARINE	S	0	0	0	0	1	94942	94942
PORTABLE HYDRAULIC DREDGING	S	0	0	0	0	1	81853	81853
A. H. POWERS, INC.	S	0	0	0	0	1	81800	81800
NEWPORT DREDGING, CO.	S	0	0	0	0	1	38800	38800
SHORELINE DREDGING & CONSTR.	S	0	0	0	0	1	36500	36500
INNER SPACE SERVICES, INC.	S	0	0	0	0	1	22905	22905
JOHN GIBLIN/MARINE SERVICES	S	0	0	0	0	1	22830	22830
WILLIAM WAHLEFIELD/ ATLAN E S	S	0	0	0	0	1	16985	16985
Total		100	212593979	30	42337543	84	73611262	328542784

Questions and Answers

SBA Subcommittee Hearings, October 26, 1983

Q. What does the Corps believe the dredging size standard should be?

A. The Corps has no position on what the size standard should be as this determination is under the purview of the SBA. The Corps does however, endorse and will support the ad hoc committee study of the dredging industry currently underway by SBA to develop a dredging size standard based on factual data.

Q. What is the Corps opinion regarding the current size standard of $9.5 million?

A. The Corps believes the current size standard of $9.5 million should remain in effect until the SBA ad hoc committee completes its study. The size standard should then be determined based on the study results and SBA's analysis of the data.

Q. Why did the SBA in its prepared statement, claim the Corps supports a higher standard?

A. The Corps does not support a higher standard and does not agree with SBA's language in their statement.

Q. What is the Corps position on a two-tiered standard?

A. The Corps feels a two-tiered standard (i.e. two levels of gross annual receipts averaged over a three year period) would only increase the number of protests with further adverse impact on our dredging mission.

Q. What is the Corps position on the SBA study of the dredging industry?

A. The Corps strongly endorses and supports the study being conducted by the

SBA ad hoc committee. We believe this is the only rational approach to resolve the controversy that exists over the current size standard. The study will provide the necessary factual data to analyze the entire dredging industry and provide justification for the standard established.

Q. Does the Corps believe the size standard should be changed during the time the SBA is conducting the industry survey?

A. The Corps believes the size standard should remain at the present level until the SBA industry study is complete. A recommendation from the ad hoc committee to the SBA on what the size standard should be is expected by March 1984. A change in the standard during this period would, in our opinion, only serve to confuse and provoke an already controversial issue. In addition, the results of the SBA study, may require another change after March 1984, thus creating even more controversy.

Q. How many dredging firms are there in CONUS and how many are currently considered small business under the present size standard?

A. The Corps does not have a complete record of dredging firms in CONUS since not all firms perform dredging work for the Federal Government. However, we believe that the results of the SBA industry study will provide the answers to this question since it will receive the widest distribution possible within CONUS.

Q. Doesn't the Corps of Engineers, as the major agency responsible for maintaining the navigable waters of the U. S., already have the data that the SBA ad hoc committee is seeking?

A. Although the Corps has some of the data the SBA ad hoc committee is seeking, we do not have sufficiently complete data to allow the SBA to conduct a thorough analysis.

Q. Isn't the Small Business Program increasing the cost of dredging to the Federal Government?

A. It is not possible to determine what the unrestricted competitive cost to the Government would be for work set aside for Small Business concerns. However, the Corps experience has been that there is sufficient competition in the existing small business community to keep prices reasonable and to permit the work to be done in a timely fashion.

Q. Why does the Corps support a study of the industry when in fact, two studies have already been conducted on this subject, ~~mainly~~ namely the Gurnee/Tobias study and the Arthur D. Little study.

A. The Arthur D. Little study did not consider the small business issue except in a peripheral manner. The issue was considered largely because the industry advisory committee, made up of large business representatives, wanted the issue addressed. The Gurnee/Tobias study was an outgrowth of the Little study and looked in a little more depth at the small business aspects. However, in both cases, the Corps commissioned the studies and the SBA rejected them. Accordingly, we welcome the opportunity now to support the SBA's own comprehensive study of the dredging industry.

Mr. **Addabbo**. Thank you, General.

General, we have received some complaints, as I know that you have, from some of the small dredgers with average annual gross receipts of less than $5 million.

General **Edgar**. Yes, sir.

Mr. **Addabbo**. It is that the corps requirements are either too large or, for the time period set to complete the contract, is too short, making it virtually impossible for them to compete for most of your set-aside contracts. Have you received such complaints, and has the corps answered those objections?

General **Edgar**. No, sir, the corps is not ware of any of these problems. Our bid packages contain the clauses, the appropriate things, according to the DAR, on what is needed to clarify the work requirements of the particular contract.

Our small business specialist at the district level is involved. He is available to respond to any questions that the firm or firms might have. If extra time is needed for bidding, this should certainly be brought to the district's attention. If at all possible, the opening date would be extended. I think that performance extensions would also be considered if that were possible. So in summary, I would say that the district would certainly listen to anything that a firm might have. We believe that we have been responsive and responsible to this.

Mr. **Addabbo**. We have heard testimony that the smaller firms would like to compete but cannot effectively compete with firms with $9.5 million gross receipts, in that category. Is there any assistance that the corps can provide to the smaller firms to enable them to compete more effectively for the set-aside contracts?

General **Edgar**. I would like Mr. Blalock to respond to that question, Mr. Chairman.

Mr. **Addabbo**. Mr. Blalock.

Mr. **Blalock**. Yes, sir. I believe that the question is, is there anything that we can do to cause the $3 to $5 million firms to compete more effectively with the $9.5 million firms.

Mr. **Addabbo**. Yes.

Mr. **Blalock**. Yes, sir, if we knew exactly who they were and what their interests were. I think that this might be the subject of a later question, but our bid packages, as the General explained to you, cannot change the requirements of the work to accommodate the very small firms because of environmental considerations and the technical considerations and things of this nature. This is some of the criticism that might have been leveled against us that our requirements be changed in order to accommodate the very small firms. We just can't do that, sir because of the technical requirements and things of that nature. If it is a matter of bid packaging, most definitely. If we are making mistakes or if we can do something, we would be more than happy to look at this and make changes.

Mr. **Addabbo**. SBA stated that the standard for each industry should be as low as reasonably possible because the smaller firms are often forced to compete with the middle firms, middle-sized firms. Do you agree with that policy and can that be instituted?

Mr. **Blalock**. Yes, sir, go ahead, General.

General **Edgar**. I think that, really, one of the things that this study committee that SBA has set up is to address that point and to identify what the proper size standard would be. We are happy to participate in that. Whatever standard that SBA would choose to use we would fully support and we would set our program accordingly.

Mr. **Addabbo**. We have heard testimony that, particularly here again in the southeastern region, a few firms bordering on the $9.5 million standard have gained competitive strength and are receiving a majority of the set-aside awards. It has also been testified that the same firms are successful in receiving contracts awarded on an unrestricted basis. If these firms are capable of competing on an unrestricted basis, does the corps believe that further assistance under the Small Business Act would be warranted? Can it be graduated out?

General **Edgar**. I think that addresses what has been referred to in some of the testimony as the medium-size dredger. We have got no statistics on the medium-size dredger, so-called, the medium-size firms.

Our solicitation documents themselves require that the bidder certify whether he is either small or large. In fiscal year 1981, small business dredging firms, received a little over 15 percent of the total dredging business on a small business set-aside basis and a little over 12 percent on an unrestricted basis, unrestricted solicitations.

Presently, large business firms do not generally have the same type of equipment as the small business. It is assumed that small business would continue to do the same amount of work and with a proportionate share of the market on an unrestricted basis.

If there is no small business set-aside program, it can be anticipated, I think, that the large business firms would acquire their type of equipment and they could totally dominate the market.

Mr. **Addabbo**. General, would you supply for the record a list of those dredging companies that receive the set-aside contracts or small business contracts in the Southeast for 1982 and 1983?

General **Edgar**. Yes, sir, we would be pleased to do so, Mr. Addabbo.

Mr. **Addabbo**. Thank you.

General **Edgar**. What time frame would you like for that, sir?

Mr. **Addabbo**. The time frame?

General **Edgar**. Yes, sir.

Mr. **Addabbo**. For 1982 and 1983. It would be for that timeframe.

General **Edgar**. It is going to take about a month, Mr. Addabbo. We will respond as rapidly as we can, sir.

Mr. **Addabbo**. Thank you.

Mr. **Daub**. I think that if you keep track of the dollar amounts that it shouldn't be all that difficult.

General **Edgar**. I would be going to our various districts and coming up with the information.

Mr. **Daub**. We have been through this before. It should not take 2 months now to do that.

General **Edgar**. I don't anticipate a lengthy time.

Mr. **Daub**. General Sysniak sends his regards.

General **Edgar**. Thank you. Please return mine, sir.

Mr. DAUB. If two or more small dredging companies are not available for a bid on a contract set aside for small business, how do you proceed? What is your procedure in the corps?

General EDGAR. Would you like to comment on that, Mr. Blalock?

Mr. BLALOCK. Yes.

General EDGAR. Mr. Blalock.

Mr. BLALOCK. We then would advertise on an unrestricted basis, sir.

Mr. DAUB. When you received a question from Mr. Addabbo with respect to the Southeast, and let us get all the dredging contracts and let us do it by quadrant. Can we do it that way? Do we have a comparative base against which to judge?

Mr. BLALOCK. You would like a nationwide breakout.

Mr. DAUB. Break it out in quadrants, Northeast and Southeast, or use the Mississippi as a guide. Then cut it. It will help us to know how the business is done within the framework of the set-aside.

General EDGAR. We will break it out regionally.

Mr. DAUB. Thank you.

Mr. ADDABBO. Would the gentleman yield?

Mr. DAUB. Certainly.

Mr. ADDABBO. The Chair appoints as acting chairman, Mr. Daub.

Mr. DAUB. I accept the charge, Mr. Chairman.

I'd be interested in dredging, of course, because I am on the Missouri River. We have a channel operation there as well.

General EDGAR. Yes.

Mr. DAUB. How many dredgers does the corps own, General Edgar?

General EDGAR. Sir, we are in a downgrade right now. We will check with Mr. Montante.

[Pause.]

General EDGAR. It is six hopper dredges and eight nonhopper dredges.

Mr. DAUB. Is there any way now to just give me a speculative guess as to whether they are all located in the Great Lakes area or where?

General EDGAR. They are dispersed around the country, Mr. Chairman.

Mr. DAUB. Can you guess from within the framework of dredging contracts that we are talking about here as to which geographical region gets the most set-aside business, General Edgar?

General EDGAR. Southeast.

Mr. DAUB. The Southeast does?

General EDGAR. Yes, sir.

Mr. DAUB. Are you willing to risk an opinion at this point in the record whether that dredging contract size standard ought to be left alone or changed?

General EDGAR. Sir, I think that our position clearly had ought to be to wait to see what the study comes up with and when the committee makes its recommendations to SBA and to which way SBA goes on what the minimum size standard is, then we will support it.

Mr. DAUB. But you aren't having any trouble getting the work done now the way the standard is?

General EDGAR. That's true.

Mr. DAUB. I don't have any more questions at this time. I want to, on behalf of the committee, thank you for your patience and waiting and for a well-prepared and factually impacting statement, General, and for the assistance of your two colleagues. We are most appreciative of your time. We will appreciate getting that information as soon as you can get it.

General EDGAR. Yes, sir, we will supply this as quickly as we can. Thank you very much.

Mr. DAUB. Ladies and gentlemen, the committee would now be pleased to hear from David M. F. Lambert of Trammell, Chase, Lambert & Martindale.

Mr. LAMBERT. Thank you.

Mr. DAUB. If you would please come up and be comfortable. The committee will be pleased to have your written statement entered into the record, as prepared, and you may proceed.

Mr. LAMBERT. Thank you.

Mr. DAUB. Relative I might say to all of you, because of the interesting circumstances, the very difficult circumstances of this last weekend and yesterday, the members have a lot of other things on their minds.

Mr. LAMBERT. Yes, sir.

Mr. DAUB. Though they are not here at this hearing this morning, they are interested in what it is that you have to say. They will be reviewing the record.

If, in the interest of time, you would care to then summarize your statement, that would be helpful.

Mr. LAMBERT. I'd be pleased to summarize it, Mr. Chairman.

TESTIMONY OF DAVID M. F. LAMBERT, ATTORNEY

Mr. LAMBERT. Thank you, Mr. Chairman.

My name is David M. F. Lambert. I am here on behalf of the National Small Business Association and the National Association of Small Government Contractors.

I appreciate the opportunity to appear before you. While Stan Tesko covered the area in which I am particularly interested I would like to expand on his statement. With your permission, I will proceed, Mr. Chairman.

Mr. DAUB. Please do.

Mr. LAMBERT. By way of background, I have been in Stan's position in the past as Director of Small Business Policy for the Department of Defense. I have also served as the General Counsel of the Small Business Administration. In the past I have done numerous studies of size standards set by SBA as they affected the procurement process, and the method used by SBA to arrive at size standards. I think that I am fairly conversant with the subject, Mr. Chairman.

Our concern is the application of the nonmanufacturing rule as it affects the manufacturer size standards and the wholesaler size standards. At the present time both the standards are essentially the same. A standard of 500 employees for the wholesaling and 500 employees for most manufacturing industries. The criteria SBA has been using for the nonmanufacture rule apply to the company which is producing but not delivering the end item under the nonmanufacture rule. Such a concern is not the manufacturer under the small business size standard. This creates a problem with the proposed lower wholesale standards in a variety of areas, some of which Stan mentioned. I would like to mention some of those problem areas.

I think it is extremely significant that the lowering of the wholesale size standard below the manufacturing size standard will create havoc, and disruption of the procurement process, resulting in additional administrative problems, and will provide a basis for numerous size protests, GAO protests, and a variety of administrative protests.

As an example, the other day I reviewed the number of contracts awarded by DOD in 1982. There were 18,800,000 contracts awarded in 1982. Of that, 18,300,000 went to small businesses for procurements under $10,000. Under the proposed changes a contracting officer or purchasing officer must make a preaward determination whether the low bidder is in fact, going to make and deliver the end item, or whether the lower bidder is going to have somebody else deliver the end item. In the one instance there will be a manufacturing size standard of 500 employees and in the other a lesser wholesale size standard. I believe the proposed changes are administratively unworkable. My statement sets out our reasons for that conclusion.

The SBA's stated purpose for the change of size standards was to make an adjustment for inflation since 1975. In the opening statement of purpose, in the Federal Register, there was a clear statement that SBA was not going to lower any of the size standards. The proposed change of the wholesaler size standard can effectively change the size of the manufacturer standard solely due to the production process.

This proposed change will require, as I mentioned before, the contracting officer in administering the set-aside program and the small purchase program under $10,000 to make a preaward determination in each case to determine whether the successful bidder, at the time of the bid, intends to manufacture the end item, or whether he intends to subcontract out the end item in the manufacturing process. As you know, that could be solely due to the manufacturing process workload or possibly, due to the fact that the otherwise small business manufacturer with 500 employees or less does not have that particular capability for the final processing of the end item being delivered.

This situation could result in a small manufacturing business losing the current exemptions from the cost accounting standards on one contract in which it did not furnish the end item delivered and, on another contract, be considered small and retain the exemption because it furnished the end item. This would effectively defeat the purpose of the exemption and require the manufacturing concern to comply with an extensive and complicated new accounting system.

In addition to the loss of that exemption, many of the manufacturers who would not come under the wholesaler standard because of the lower size standard would be tempted, to bid as a manufacturer even though they intended to subcontract out the end item to someone else. This would be fraudulent and the contracting officer without doing an indepth preaward survey would not be able to make a determination as to the actual size of the low bidder until after the bidder had completed the performance of his contract.

There are other SBA assistance programs for which a manufacturer who did not deliver the end item would not be eligible, such as the prompt payment program. Under the proposed amendment to Office of Management and Budget Circular A-125, such concerns would no longer be exempt from having the time value of money applied as an award factor when applying for contract financing on a Government procurement. This would be a significant financial deprivation to small manufacturing business. In connection with the Export-Import Bank's small business program, the eligibility question would be raised by the bank, based on the issue of whether the applicant was going to deliver the end item or going to subcontract the end item and therefore not qualify as a small business under the lower wholesale size standard.

The SBA proposal to change the wholesale receipts standards and to classify firms with manufacturing capabilities as wholesalers with the attendant smaller standard comes as a surprise to many small manufacturing concerns who will become other than small overnight.

In order to alleviate this problem, my recommendation is the same as DOD's and the majority of the industries commenting on this regulation. The SBA wholesaler size standard should remain at 500 employees.

Thank you, Mr. Chairman. At this time I would be glad to answer any questions that you or the committee may have on this matter.

[Mr. Lambert's prepared statement follows:]

PREPARED STATEMENT OF DAVID M. F. LAMBERT, ATTORNEY

My name is David M. F. Lambert, and I am here as a representative of the National Association of Small Government Contractors.

I appreciate the opportunity to respond to your invitation to appear before the Committee and comment on SBA's proposed size standards as set forth in the May 6, 1983 Federal Register. Certain elements of the proposed size standards would have an adverse impact on many small businesses and particularly Department of Defense's small business set aside program.

My interest in SBA size standards stems from many years of association and involvement with small businesses. I was formerly General Counsel of the Small Business Administration and previous to that the Director of Small Business Policy for the Department of Defense. I have previously testified before this Committee on issues affecting small business size standards and have furnished to SBA over the years extensive legal and economic analysis of size standards for seven manufacturing and service industries. I appear before you today after reflecting on the impact of one particular section of the proposed size standards.

I. SBA's PROPOSED NONMANUFACTURING RULE EFFECTIVELY LOWERS SIZE STANDARDS

My comments are directed at Section 121.5(b)(2) of SBA's proposed size standards as published in the May 6, 1983, edition of the Federal Register. This Section as proposed will have an adverse effect on small businesses currently performing several billion dollars worth of contracts set aside annually by the Department of Defense (DOD) for small concerns. Section 121.5(b)(2), referred to as the "nonmanufacturing rule", will effectively lower the size standards for more than sixty wholesale industries which now participate in DOD's small business set aside program. The proposed "nonmanufacturing rule" would lower the current 500 employee size standard to an average annual receipts standard of $15, $25 or $35 million for wholesalers. SBA proposes to lower wholesale size standards through application of the "nonmanufacturing rule" without apparently performing an economic analysis to support the new standards. Such a lowering of size standards, whether using receipts or employees, without an economic analysis in accordance with section 3 of the SBA Act is unjustified.

Small business manufacturers will likewise be seriously affected by SBA's proposed "nonmanufacturing rule." Simply put, under SBA's proposed rule, if a small business manufacturer has a proven production capability but does not perform the final stage of production of an end product on a set-aside procurement, it will be treated as a wholesaler and subject to the proposed $15-$35 million receipts standard rather than the current 500 employee nonmanufacturing standard. While SBA applies its current "nonmanufacturing rule" in a similar manner the key difference is that the present size standard for nonmanufacturers is 500 employees the same size standard generally applied to manufacturing concerns by SBA. (See 13 CFR §121.3-8). Allowing the nonmanufacturing size standard to remain the same as the SBA's traditional manufacturing size standard, i.e., 500 employees, provides the legitimate small business manufacturer greater flexibility and latitude in bidding and performing Government set-aside procurements.

The "nonmanufacturing rule" as proposed will affect a small business manufacturer, depending upon whether the small concern is functioning in a "manufacturing" or "nonmanufacturing" capacity. A company which can manufacture or produce the product referred to in the specific procurement, but does not do so in connection with that procurement will be deemed a "nonmanufacturer" for that procurement, and subject to the applicable wholesale size standard for the product involved. Wholesale size standards, as previously mentioned, vary from $15 to $35 million in average annual receipts.

This proposed change in the SBA "nonmanufacturing rule" will severely impact the following industries to name a few: office product dealers, suppliers of airplane, automobile and truck parts, textile converters, apparel manufacturers, and members of the oil industry, among others. Indeed, SBA received nearly 35 adverse comments from DoD and various industries regarding this proposed section of the size standard revisions.

II. SBA Contradicts Its Own Purpose To Not Lower Size Standards

SBA acknowledged that compelling reasons existed for continuation of existing receipts size standards with adjustments for inflation, in order to facilitate "administration of the small business set-aside program," and to assure minimal "disruption to this program." 48 Fed. Reg at 20,561 (emphasis added).

In proposing to lower size standards SBA is contradicting its purpose as stated in the Federal Register that:

> " . . . the size of firm[s] eligible to bid on procurements set aside for exclusive small business bidding is of great concern for the Government's procuring agencies, especially the Department of Defense. . . .(s)tandards for SBA assistance must be sufficiently

> high to involve firms with substantive capability and sophistication in the procurement process. This proposal is intended to address that concern by not lowering any size standards, and increasing others." 48 Fed. Reg. 20,560 (emphasis added).

SBA's proposed "nonmanufacturing rule" decreases participation in the small business set aside program by substituting the "appropriate wholesale size standard for the item supplied, rather than the general 500 employee nonmanufacturer size standard of the present regulation," creating the disruption and uncertainty SBA is attempting to avoid. 48 Fed. Reg. at 20,562. Some examples of this follow:

A. Current DoD Small Business Procurement Will Be Disrupted.

The proposed "nonmanufacturing rule" will disrupt the DoD set-aside program. DoD will be forced to lower its current set-aside program goals because most of the participants now classified as small under the 500 employees size standard will be classified as "large" under the proposed rule. DoD has indicated they will have to abolish the set-aside program for several industries, or contract with an entirely new group of untried vendors, none of which has any previous government experience. Additionally, small business concerns currently on DoD's register of Planned Emergency Producers and determined large under SBA's proposed wholesale size standard will no longer be eligible to participate in the DoD set-aside program. DOD has strongly recommended the 500 employee wholesale size standard not be changed.

B. SBA Proposes to Substitute Uncertainty Where Reasonable Predictability Presently Exists.

The proposed "nonmanufacturing rule" will make it impossible for SBA and the contracting officer to follow its long held requirement that size is to be determined at the time of bid opening. (See In the Matter of Size Appeal of S.F.& G., Inc. D/B/A Mercury (Re: Metro Contract Services, Inc), SBA Appeals Board No. 1305, November 20, 1979.) Not until it is determined from whose plant the deliverables are shipped--the manufacturers' or that of a subcontractor--will it be possible to ascertain if the manufacturer is indeed a manufacturer for purposes of proposed §121.5(b)(2)(ii), and therefore whether the manufacturing employee standard or the wholesale receipts standard governs.

Preaward surveys will become necessary in each contract in order to prevent fraudulent promises by wholesalers, who exceed the proposed receipts standard, and who certify they will perform all the work on the end item in-house as a manufacturer. Since preaward surveys are not performed on contracts of $25,000 or less, as prescribed by DAR §1.905a(b) it is anticipated that this will be an area of frequent abuse, requiring considerable administrative effort to monitor.

1. A Small Manufacturing Business Will Have More Than One Size Standard Depending On How It Performs The Contract.

The same firm may at one time for one procurement be a manufacturer, and at another time on another procurement be a wholesaler, simply because its plant is too full to perform the final product assembly operations. Therefore, a concern's size standard will become a function of its workload rather than a function of its product or process.

To complete the confusion, determing size protests will become greatly complicated because at bid opening it will need to be determined if the "manufacturer", or a "wholesaler" plans to deliver the end product to the government.

2. An Illustration of the Resulting Confusion.

To illustrate the resulting confusion that will be caused by SBA's "nonmanufacturing rule," allow me to provide an example. One who manufactures all of the component parts and merely subcontracts out the assembly thereof, which might be 10 percent of the dollar amount of the contract, is a manufacturer under the Walsh-Healey Public Contracts Act (41

U.S.C. §35(a)), but is not a manufacturer under the SBA the definition. Rather, the assembly subcontractor would be the manufacturer, and the concern which did 90 percent of the work would be a "wholesaler" for SBA size purposes and therefor subject to a $15-$35 million average annual receipts size standard, rather than a 500 employee or greater manufacturing size standard.

III. SBA Proposes to Deprive Small Concerns of Government Assistance.

A concern deprived of its small business size status would also be deprived of government assistance. The following are some examples:

Any lowering of the wholesale size standard will result in removal of small size status through the application of the "nonmanufacturer rule". Affected companies will not be able to participate in any of SBA's procurement assistance programs, including the set-aside program, the 8(a) program, the labor surplus area set-aside program, the subcontracting program, the Certificate of Competency program, the PASS system, the small business fair share of surplus property and resources program, as well as the new Small Business Innovation Research Program.

There are more than thirty different programs under the aegis of the Small Business Administration alone from which businesses will be excluded should they become large by the application of the "nonmanufacturer rule". Small concerns are eligible for financial assistance in the form of loan guarantees; special loan programs which include state and local development company loans, small general contractor loans, contractors line of credit guarantees, seasonal line of credit guarantees, small business employee ownership assistance, export financial assistance, economic opportunity loans, solar and other energy conservation loans, handicapped assistance loans, disaster assistance in the form of physical damage natural disaster, etc.

Losing small status also means losing access to SBA's management assistance to small concerns: SCORE, ACE, Small Business Institutes on 500 college and university campuses, Small Business Development Centers, Business Management courses, international trade counseling and training, as well as numerous management, marketing and technical publications for small businesses.

Small business status is a decided asset to a concern. For example, being small means being exempt from compliance with Cost Accounting Standards (CAS). SBA procurement size standards are used to determine this exemption. This logically raises the question whether a concern can be subject to CAS for one procurement as a wholesaler and not another, where it is determined to be a manufacturer as a result of SBA's proposed "nonmanufacturing rule."

An amendment recently proposed to Office of Management and Budget Circular A-125 implementing the Prompt Payment Act, will exempt small businesses from having the time value of money applied as an award factor when seeking contract financing on a government procurement.

Deprivation of small business status will result in the loss of benefits under the legislation passed by both the House and Senate and currently awaiting conference which proposes that the Export Import Bank promote and develop small business exports by allocating at least six percent of EX-IM Bank resources for small business export financing.

I have attached an addendum to my written testimony listing some of the federal agency programs from which concerns will be excluded if small business size status is removed.

I would like to conclude my testimony today with a quote from the NAACP/Minority Business Enterprise Advisory Committee's objection to SBA's proposed "nonmanufacturing rule":

> "By arbitrarily redefining the standards applicable to wholesalers, SBA will consider large numbers of these minority-owed firms as suddenly other than 'small'. This will make them ineligible for federal programs even though they have not grown and still remain socially and economically disadvantaged in today's economy, with minority unemployment at record levels. It is crucial that firms owned and operated by minorities not be precipitously denied federal assistance.... Surely, SBA should not take actions that can only result in fewer federal purchases from minority firms."

Recommendation

The SBA proposal to change to a wholesale receipts standard, and to classify firms with manufacturing capability as wholesalers, with the attendant smaller standard comes as a surprise to those concerns which will overnight become other than small. In order to alleviate this problem, my recommendation is the same as DOD's and the majority of industries commenting on this regulation; the SBA wholesale size standard should remain at 500 employees.

ADDENDUM

Examples of Federal Programs from which concerns are excluded unless they are classified as small businesses:

DEPARTMENT OF COMMERCE

National Bureau of Standards:

- -- Patent Technology Transfer Program

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy:

- -- Project grants to small businesses for energy technology
- -- Technical information and assistance to small businesses

Office of Resource Applications:

- -- Federal Geothermal Loan Guarantees

DEPARTMENT OF THE INTERIOR

Office of Aircraft Services:

- -- Program to contract solely with small business for aircraft services and supplies on a department wide basis

TENNESSEE VALLEY AUTHORITY

- -- Community revitalization program management services
- -- Small Coal Operator Assistance Program

Mr. DAUB. Thank you, Mr. Lambert. I do have some questions for you. I appreciate very much your expertise and your background that you have brought before the committee today.

Mr. LAMBERT. Thank you.

Mr. DAUB. I think that the last part of your statement on page 10 and 11, that this may answer this question, but I would like to get it on the record. What impact will the nonmanufacturing rule have upon the present minority-owned manufacturing firms?

Mr. LAMBERT. I believe it would create a great deal of uncertainty in that program. Under the court rulings, the SBA is prohibited from giving a contract to a large business. So, in many instances, you may find an 8(a) manufacturing firm that is doing 90 percent of the manufacturing work in-house and subcontracting the completion of the end item for the other 10 percent. Under the lower wholesaler standard and the nonmanufacturing rule, the 10 percent being performed by someone else could make the 8(a) firm a wholesaler and therefore a large business and ineligible for the 8(a) contract. These 8(a) firms will come under the wholesale size standard if they do not complete the end item.

I understand SBA may change the proposed receipts standards for wholesalers to the present employee standard at a reduced level well under 500 employees. To do this, they are required to make an economic analysis to justify the new standard. That is the requirement of section 3 of the act, SBA must determine if the size of a company within its industry makes that company dominant in the industry or not dominant in the industry. That is a function of the economic analysis and is based on judgments which can only be made when you get all of the historical data in front of you to see where the lack of dominance breakpoint is.

Mr. DAUB. Following right along with the same logic, will the proposed nonmanufacturing rule lower the size standards for current participants in the set-aside programs under the 500 employee manufacturing standard which you recommend?

Mr. LAMBERT. Yes; it will. The size standards are based on a function of the sales dollars per employee. Based on the studies that we have made in the past, there can be a required investment, say of $25,000 up to $150,000 to $200,000 per employee. If, for example, the investment for the particular industry was $50,000 per employee, at $25 million sales level there would be a 500-employee standard. At $15 million they would be at 300 employees. At $35 million, they would be at 700 employees. Under that analysis, the receipts standard for wholesalers does not reflect the actual number of employees of a wholesale company.

That is not, I believe, the intention of SBA. I think that they want to move the 500 wholesale employees standard to a considerably lower level.

Mr. DAUB. I appreciate your point of view. Have you submitted a letter as required under the proposed publication here or conveyed this testimony in basic form to SBA and the group working with these standards?

Mr. LAMBERT. Yes; we did. We did this rather late because it became apparent that the nonmanufacture rule and the receipts standards of the proposed regulation had a whole series of results which we were not aware of at first. We were, I must say, caught somewhat unaware.

Mr. DAUB. I'd like the record to show with respect to the National Association of Small Government Contractors how long the organization has been in existence, what kind of membership you have, what kinds of businesses are represented and are they small?

Mr. LAMBERT. Yes, sir.

Mr. DAUB. Go ahead.

Mr. LAMBERT. They are all small. Each member is required to be small under the SBA definition.

It is an organization which was started about 3 or 4 years ago. The membership has been up and down. I am not sure just exactly what it is now.

The National Small Businesses Association is an organization which has approximately 50,000 members.

Mr. DAUB. Have you worked with DOD to sort of be in touch with them on your position and, if so, have you worked with SBA? Your answer a minute ago kind of alluded to maybe some concern and it developed rather late because you, all of a sudden, could see that they were emphasizing the tiered approach and that may have some impact on your membership, Mr. Lambert.

Mr. LAMBERT. I worked very closely with DOD.

Mr. DAUB. Yes.

Mr. LAMBERT. They have been very concerned about it.

Mr. DAUB. Yes.

Mr. LAMBERT. I think that Stan has a lot of issues on his plate. He really didn't have a chance to fully expand on the nonmanufacture rule. This is going to have a major impact on, not only defense preparedness, but on those companies that are providing products to DOD, particularly where the product represents a very high percentage of small business set-asides. There would not be room for someone who is otherwise under the manufacturing standards.

Mr. DAUB. I don't want to interrupt you, but are you saying, in essence, that if the lowering of the wholesale size standard occurs, we are going to actually see a lot of businesses cease to participate.

Mr. LAMBERT. Yes; many will cease to be eligible to participate in small business set-asides and will go out of business simply because of the fact there is no comparable requirement to their product in the commercial markets. To perform a Government contract is more complex than the performance of a commercial contract. Because of this complexity, you cannot move into the commercial field if Government work is not available. Besides quality assurance standards there are at least 35 or 40 separate social and economic contract clauses which require conformance in a Government contract not found in a commercial contract. Under the nonmanufacture rule those companies who do not deliver the end item will drop from the defense preparedness list because they would be out of business.

Mr. DAUB. Thank you.

Mr. LAMBERT. Yes, sir.

Mr. DAUB. Your testimony has been most enlightening to the committee.

Mr. LAMBERT. Thank you.

Mr. DAUB. It has been most forcefully presented. We want to thank you. On behalf of the committee we want to also thank your association for having you come and testify today.

Mr. LAMBERT. Thank you, Congressman Daub. We do appreciate it.

Mr. DAUB. I believe that our next witness will be Mr. Steven Bloom, chairman of the National Association of Tobacco Distributors. Please be comfortable. Your written testimony has been made available to the members of the committee. Without objection, it will be made a matter of record. You may proceed then at this time to summarize if you wish.

TESTIMONY OF STEVE BLOOM, CHAIRMAN OF THE LEGISLATIVE COMMITTEE, NATIONAL ASSOCIATION OF TOBACCO DISTRIBUTORS

Mr. BLOOM. I am Steven Bloom, chairman, National Association of Tobacco Distributors committee on legislation and taxation, as well as a member of the association's board of directors.

The National Association of Tobacco Distributors represents over 570 corporate wholesale-distributor members representing over 740 distribution outlets. Our 230 manufacturer and supplier associates whose 12,000 salesmen canvass and supply almost 1.5 million retail outlets selling tobacco products across the United States.

On May 6, 1983, the Small Business Administration issued their third revised rule defining a small business for procurement and financial assistance programs. The NATD is supportive of the administration's efforts to revise the existing size standards and adjust requirements for industry to participate in SBA programs according to the economic realities of our time.

The SBA's proposed rules for small business size standards would raise the size standard for businesses in the wholesale category of tobacco and tobacco products from $14.5 million in gross revenue to $25 million. While we support increasing the size standards, NATD believes that the proposed size standard of $24 million is still too low to be useful to the majority of tobacco distributors which are small businesses. We would like to enlist the support of this committee to change the proposed regulation for the SIC–5194 to make their recommendations meaningful and effective to our industry.

Tobacco wholesalers are in a unique situation in that their products are subject to Federal, State and local excise taxes. In some jurisdictions these excise taxes inflate the wholesalers' gross revenue for such products as much as 100 percent. It is unfair to disqualify tobacco wholesalers from SBA section 7(a), bank loan gurarantees, direct economic opportunity loans, and local development loans merely because such excise taxes inflated their gross revenues so that they exceed the SBA size standard.

It is especially unfair to tobacco wholesalers because, by law, they are obligated to act as a tax collector for government excise taxes because they have no control as to the level of excise taxes and because the level of excise taxes would vary substantially between jurisdictions. For example, the price for a pack of cigarettes in Chicago includes 16 cents Federal tax, 12 cents State tax, 10 cents city tax, and 5 cents county tax, for a total of 43 cents in excise taxes.

There are two alternative solutions to this problem. First, the proposed size standard could be raised to $50 million. In a recent survey of NATD members, it was determined that 87 percent of the wholesale tobacco industry is comprised of small businesses with annual gross revenues of $50 million or less.

Second, the proposed $25 million size standard could be based on a concept of adjusted gross revenue which would exclude Federal, State and local excise taxes, similar to the way allowances for bad debts or returned merchandise are deducted from gross revenue.

In addition, the definition and determination of the amount of excise taxes paid by tobacco distributors would be straightforward.

The SBA contacted the NATD regarding our proposed changes to their regulation recommendations. As an alternative to maximum annual gross revenue levels for size standard requirements, they had asked whether a range of 100 to 150 employees as a standard would be acceptable to our tobacco wholesale industry. This past April 1983, the NATD conducted a major survey of our members and included in that survey was a question on the number of employees per member.

Now, the vast majority, over 98 percent, indicated that they had 100 or fewer employees.

The NATD, therefore, does not object to an SBA standard if within the 100–150 employee range.

Representative Savage's congressional district best demonstrates the problem that we are trying to indicate on the SBA size standard. Within the city of Chicago, for example, there is a 16-cent Federal tax, a 12-cent State tax, a 10-cent city tax and a 5-cent county tax.

Mr. DAUB. Isn't that just the beginning, probably, of the use of many of your products to be an additional source of revenue for localities and the municipality?

Mr. BLOOM. In reality, you might say yes. Hopefully, not.

Mr. DAUB. I understand.

Mr. BLOOM. Today in the city of Chicago, 43 cents of the pack product is a direct tax.

In figuring the size standards, for us to have to include the gross amount of those excise taxes, would mean a sale that is far inflated as to what the reality of that sale is. We are respectfully asking that the size standard be adjusted so that we may exclude excise taxes in reporting of our annual sales.

Mr. DAUB. I was happy to note that the SBA contacted you.

Mr. BLOOM. Yes.

Mr. DAUB. Is that correct?

Mr. BLOOM. That is correct.

Mr. DAUB. I assume this was in response to your filing of your opinions with respect to the proposed regulation, Mr. Bloom?

Mr. BLOOM. Yes.

Mr. DAUB. Thank you.

Mr. BLOOM. Mr. Chairman, this completes my testimony. At this time would be glad to answer any questions that you have.

Mr. DAUB. Thank you.

[Mr. Bloom's prepared statement follows:]

PREPARED STATEMENT OF STEVE BLOOM, CHAIRMAN OF THE LEGISLATIVE COMMITTEE, NATIONAL ASSOCIATION OF TOBACCO DISTRIBUTORS

Mr. Chairman and Members of the Committee, my name is Steve Bloom, of S. Bloom, Inc., a wholesaler distributorship located in the Chicago metropolitan area. I am Chairman of the National Association of Tobacco Distributors' Committee on Legislation and Taxation, as well as a member of the Association's Board of Directors. I am also Legislative Chairman of the Illinois Association of Tobacco and Candy Distributors.

The National Association of Tobacco Distributors (NATD) represents over 570 corporate wholesaler-distributor members representing over 740 distribution outlets and our 230 manufacturer/supplier associates whose 12,000 salesmen canvass and supply almost 1.5 million retail outlets selling tobacco products across the United States.

On May 6, 1983 the Small Business Administration issued their third revised rule defining a small business for procurement and financial assistance programs. The NATD is supportive of the administration's efforts to revise the existing size standards and adjust requirements for industry to participate in SBA programs according to the economic realities of our time.

The SBA's proposed rules for Small Business Size Standards would raise the size standard for businesses in the wholesale trade category of tobacco and tobacco products (SIC-5194) from $14.5 million in gross revenue to $25.0 million. While we support increasing the size standards, NATD believes that the proposed size standard of $25.0 million is still too low to be useful to the majority of tobacco distributors which are small businesses. We would like to enlist the support of this Committee to change the proposed regulation for SIC-5194 to make their recommendations meaningful and effective to our industry.

Tobacco wholesalers are in a unique situation in that their products are subject to federal, state and local excise taxes. In some jurisdictions these excise taxes inflate the wholesalers gross revenues for such products as much as 100%. It is unfair to disqualify tobacco wholesalers from SBA Section 7 (a) Bank Loan Guarantees, Direct Economic Opportunity Loans, and Local Development Loans, merely because such excise taxes inflated their gross revenues so that they exceed the SBA size standard. It is especially unfair to tobacco wholesalers because by law they are obligated to act as a tax collectors for government excise taxes, because they have no control as to the level of excise taxes, and because the level of excise taxes vary substantially between jurisdictions. For example, the price for a pack of cigarettes in Chicago includes 16 cents federal tax, 12 cents state tax, 10 cents city tax and 5 cents county tax, for a total of 43 cents in excise taxes.

There are two alternative solutions to this problem. First, the proposed size standard could be raised to $50 million. In a recent survey of NATD members, it was determined that 87% of the wholesale tobacco industry is comprised of small businesses with annual gross revenues of $50 million or less.

Second, the proposed $25 million size standard could be based on a concept of "adjusted gross revenue" which would exclude federal, state and local excise taxes, similar to the way allowances for bad debts or returned merchandise are deducted from gross revenue. In addition, the definition and determination of the amount of excise taxes paid by tobacco distributor would be straightforward. On the state and local level, the exact amount of excise taxes paid can be determined from information which every tobacco distributor is required to file with state and local governments. On the federal level, a specific percentage of the manufacturer's price constitutes excise tax, and therefore the total amount of federal excise tax can easily be determined based on sales volume records.

The SBA contacted the NATD regarding our proposed changes to their regulation recommendations. As an alternative to maximum annual gross revenue levels for size standard requirements, they had asked whether a range of 100 to 150 employees as a standard would be acceptable to our tobacco wholesale industry. This past April, 1983 the NATD conducted a major survey of our members and included in that survey was a question on the number of employees per member. The vast majority, over 98 percent, indicated that they had 100 or fewer employees. The NATD, therefore does not object to an SBA standard if within the 100-150 employee range.

NATD respectfully requests that the SBA revise its proposed size standards to accommodate our concerns.

Mr. **Daub**. Mr. Bloom, since you say about 98 percent of your firms have 100 or fewer employees, is that because they are making the technical distinction between the 1099 independent contractor payroll and the W-2 employee payroll?

Mr. **Bloom**. No. That would be the actual number on the W-2 payroll.

Mr. **Daub**. Yes; but would many of these firms in your industry also have many detailed people?

Mr. **Bloom**. No, sir.

Mr. **Daub**. Go ahead.

Mr. **Bloom**. That would be at the manufacturer level, as opposed to the wholesale distributor level.

Mr. **Daub**. So you are not really, even in your own field, that is, may be larger in terms of numbers that are affiliated with the distributors because they use an independent contract as opposed to an employee situation, an employer-employee relationship?

Mr. **Bloom**. Correct.

Mr. **Daub**. Well, then, you're being, or there is nothing being fabricated or there is no hiding of the true nature of the people that are in your part of the industry?

Mr. **Bloom**. That is absolutely correct.

Mr. **Daub**. What is the estimated dollar volume that your particular chain, that is, part of the chain of distribution does with the Government? Have you got that? Is it a big hunk of your profession's business?

Mr. **Bloom**. Absolutely. I happen to own a distributorship located in Metropolitan Chicago. It does a sizable business, in excess of $120 million in annual sales per year.

Mr. **Daub**. In Chicago?

Mr. **Bloom**. Yes; the only problem is that, of the $120 million in sales, close to half of that are taxes.

Mr. **Daub**. Half of that are taxes.

Mr. **Bloom**. Close to half of that, I would say. I am acting as an agent in collecting taxes for the State, city, and county.

Mr. **Daub**. Is there any commission or rebate from some locales for the function that you do perform of collecting that tax? Do you get a penny per dollar or a penny per thousand for the paperwork?

Mr. **Bloom**. It varies in many locales in the country. We are remunerated for the collection of that tax. In Illinois, for instance, for the collection of the $72 per case tax and affixing of the stamp and reporting involved, we are remunerated at 48 cents a case. We would love to pay the State of Illinois 48 cents a case and have those cigarettes come in with the tax already taken care of at the time. The collection of the tax is not a profit incentive.

Mr. **Daub**. I wouldn't expect that this would be. I would certainly be astounded if you were to suggest otherwise, Mr. Bloom. I do appreciate your very illuminating testimony today.

Mr. **Bloom**. Yes, sir.

Mr. **Daub**. This member, I guess, just hadn't focused on the idea that 40 percent or so of the work of your businesses in your field would be a funnel for a transfer payment, that, indeed, that doesn't measure very accurately the economic impact of the transactional business government is doing.

I am glad to see that SBA is aware that an employee level is certainly a better gage. I would ask your industry to consider that it would be awful hard, maybe, to raise the size standard to $50 million because that would tend to create some other problems.

Mr. BLOOM. Even the change in the standard would be acceptable, sir. The big thing that we would want you to recognize is that, while numbers of our members do what would be considered large amounts of volume, this is a collection of the tax.

Mr. DAUB. We do, indeed. Your employee size standard recommendation in 100 to 150 as distinguished from 500, Mr. Bloom?

Mr. BLOOM. That's correct.

Mr. DAUB. You have been most helpful to the committee. We appreciate your taking the time to be with us today. Thank you very much.

The next witness today is Ms. Janet Newport. She is director of legislative affairs, National Oil Jobbers Council.

Please come forward.

Ms. NEWPORT. Thank you, Mr. Chairman.

Mr. DAUB. Please be comfortable. You are aware, from having endured, hopefully to some degree of enlightenment from the foregoing witnesses, that your statement will be a matter of record.

Ms. NEWPORT. Thank you.

Mr. DAUB. It is my request that you may either read or hopefully summarize, if I have been tactful, in the interest of time, particularly since I do have some questions for you and would clearly like to have those also on the record.

Ms. NEWPORT. I'll try to make this as brief as possible.

TESTIMONY OF JANET NEWPORT, DIRECTOR OF LEGISLATIVE AFFAIRS, NATIONAL OIL JOBBERS COUNCIL

Ms. NEWPORT. I am Janet Newport. As you said, I am director of legislative affairs, National Oil Jobbers Council. On behalf of the council I would first like to express our appreciation for the opportunity to be here.

NOJC is a federation of 42 State and regional trade associations representing approximately 11,000 independent small business petroleum product marketers.

Our members include gasoline and reseller retailers and a large number of retail fuel oil dealers. These members also wholesale and/or retail many other petroleum products, including kerosene, LP gas, aviation fuels, and motor oils, as well as residual fuel oil. Together our members market approximately 50 percent of the gasoline and 85 percent of the home heating oils sold in America under either their own private brand or the trademark of their suppliers, Mr. Chairman.

NOJC recognizes and appreciates the magnitude of the task which has confronted the SBA, both in choosing the proper methodology to evaluate the small business community and in attempting to accurately analyze the data produced by the methodology to establish realistic size standards.

However, we are seriously concerned that the effort we have expended on this issue since the revisions were first proposed in March 1980, have been ignored in SBA's most recent proposal.

Specifically, and if you'll bear with me, I would like to go through this, as there are four different SIC codes that pertain to our industry.

Mr. DAUB. Yes.

Ms. NEWPORT. Specifically, we are concerned with the SBA proposal setting forth the size standard for petroleum bulk stations, petroleum wholesalers, gasoline service stations, and fuel oil dealers.

This newest change in the standards represents a dramatic reduction in marketer eligibility for SBA loans.

Now, to illustrate this, under the May 1982, proposal, over 90 percent of NOJC's marketers would have been eligible for SBA assistance.

By comparison, the newest proposal would only cover 9.4 percent of the association fuel oil dealers and only 20 percent of the gasoline chain retailers. The number of eligible petroleum produce wholesalers without bulk plants, a distinction in the SIC code, would also drop from over 90 percent to 83 percent, again according to NOJC data.

We had calculated that if the size standards for heating fuel dealers were raised from $3.5 to $5 million, 83 percent of these small businesses would be eligible for SBA assistance. By raising the standard to $7.5 million, at least 95 percent of those dealers would be eligible.

Our calculations also show with respect to the chain retailers that if the size standards were raised from $3.5 million as proposed by SBA to the $5 million level, only 25 percent of those marketers would be eligible for assistance here.

We have strongly recommended to the SBA the size standards for these two categories be revised upward. For heating oil dealers the size standards should be at least $7.5 million and for the chain retailers at least $15 million.

These changes would more realistically reflect the current state of petroleum prices, the economy and the competitive climate affecting our association's members at this time.

NOJC is also deeply concerned with the size standards proposed for categories covering bulk stations and terminals and wholesalers.

Throughout the history of this rulemaking, beginning with the standards currently in place, through the first advance notice issued in March 1980 to the second advance notice issued in May 1982, the standard proposed for bulk stations and terminals has always been larger or at least equal to the proposed standard for the wholesalers.

The subcommittee should note that the bulk terminal operations are, by their very nature, much larger operations than are wholesalers without bulk facilities. That is just the way that the business is run. In my testimony I allude to some data concerning the billions of gallons and barrels of total U.S. storage compared to the very much lower level for our industry.

We understand for this particular line item, if you will, that SBA has examined data by the Census to arrive at its conclusions regarding average company size. However, this data was gathered for the year 1977. We believe that this is seriously outdated. I am sure that the SBA recognizes that the economy as well as petroleum prices have undergone tremendous changes since 1977.

Even if SBA is bound to adhere to census data, NOJC believes that the data does not support the establishment of such a wide standard differential between categories, the bulk category and the wholesale category.

We strongly recommend that the size standard be revised upward to $35 million.

To sum up, I hope that the SBA and the subcommittee appreciate that the petroleum industry is very capital intensive. We would support the view that some of these standards have to be much higher. I would like to say that it is obvious from my statement that we think that the SBA proposal is too restrictive and this does not reflect the realities of the small business petroleum product market. By again resorting to the sales criteria, SBA will have to continually review that standard with inflation and the general state of the economy and any future international energy crisis impact on the industry.

Finally, NOJC's members would like to ask for reasonable standards that equitably reflect the industry and do not foreclose our membership from availing themselves from any SBA assistance program.

Thank you very much. I'll be happy to answer any questions you have.

[Ms. Newport's prepared statement, with attachments, follows:]

Prepared Statement of Janet Newport, Director of Legislative Affairs, National Oil Jobbers Council

My name is Janet Newport, I am Director of Legislative Affairs for the National Oil Jobbers Council (NOJC). On behalf of NOJC I would like to express the appreciation of our members for the opportunity to appear today and discuss the Small Business Administrations (SBA) most recent proposal to revise the proposed small business size standards. Before outlining the substance of our comments a brief discription of our membership is appropriate. The NOJC is a federation of 42 state and regional trade associations representing approximately 11,000 independent small business petroleum product marketers. Members include gasoline and reseller-retailers and a large number of retail fuel oil dealers. These members also wholesale and or retail many other petroleum products, including kerosene, LP gas, aviation fuels and motor oils as well as residual fuel oil. Together our members market approximately 50 percent of the gasoline and 85 percent of the home heating oils sold in America under either their own private brand or the trademark of their suppliers.

The SBA Proposals

NOJC recognizes and appreciates the magnitude of the task which has confronted the SBA both in choosing the proper methodology to evaluate the small business community, and in attempting to accurately analyze the data produced by the methodology to establish realistic size standards. However, NOJC is seriously concerned that the effort we have expended on this issue since the revisions were first proposed in March, 1980, have been ignored in SBA's most recent proposal. Specifically, NOJC is extremely concerned with the new SBA proposal setting forth the size standards for petroleum bulk stations (5171), petroleum wholesalers (5172), gasoline service stations (5541), and fuel oil dealers (5983). (See attached chart.) This newest change in the standards represents a dramatic reduction in marketer eligibility for SBA loans from previous proposals. To illustrate, under the May 1982 proposal, over 90 percent of NOJC's marketers would have been eligible for SBA assistance. By comparison, the newest proposal would only cover 49.4 percent of association fuel oil dealers (5983) and only 20 percent of the gasoline chain retailers (5541) would be eligible for SBA programs according to data contained in NOJC's Marketer Profile Survey. The number of eligible petroleum product wholesalers without bulk plants would also drop from over 90 percent to 83 percent, again according to NOJC data.

We have calculated that if the size standards for heating fuel dealers were raised from $3.5 to $5 million, 83 percent of these small businesses would be eligible for SBA assistance. By raising the standard to $7.5 million, at least 95 percent of those dealers would be eligible.

Our calculations also show that with respect to chain retailers if the size standards were raised from the $3.5 million proposed by SBA to $5 million only 25 percent of those marketers would be eligible for SBA assistance. By raising the standard to $7.5 million, 32 percent would be eligible. We have strongly recommended to the SBA that the size standards for these two categories be revised upwards. For heating oil dealers (5983) the size standard should be at least $7.5 million and for chain retailers (5541) at least $15 million. These changes would more realistically reflect the current state of petroleum prices, the economy and the competitive climate facing our association's marketers.

NOJC is also deeply concerned with the size standards proposed for categories covering bulk stations and terminals (5171) and wholesalers (5172). Throughout the history of this rulemaking, beginning with the standards currently in place, through the first advance notice issued in March 1980 to the second advance notice issued in May 1982, the standard proposed for category 5171 has always been larger than or at least equal to that proposed for category 5172. The current proposal inexplicably departs from this historical norm and sets a much lower standard for 5171 ($25 million) than for 5172 ($35 million).

The establishment of a much lower size standard for wholesale operators with bulk liquid storage facilities than for those without such facilities is illogical. As defined in the Standard Industrial Classification, Category 5171 includes not only NOJC association members, who together have a total storage of 2.3 billion gallons, but also companies that own and control petroleum terminals capable of receiving ocean going oil tankers, which have a total storage capacity of more than 57 million barrels. Category 5171 business size standards should at minimum recognize the operational differences which will be reflected by higher costs of doing business in some categories.

NOJC understands that the SBA has examined data issued by the United States Bureau of the Census on Wholesale Trade to arrive at its conclusions regarding average company size. However, as this data was gathered for the year 1977, NOJC believes that this information is seriously outdated. The SBA certainly recognizes that the economy, as well as petroleum prices have undergone tremendous changes since 1977. The recession has taken its toll on a number of industries; and petroleum marketing is no exception.

Even if SBA is bound to adhere to census data, however outdated, NOJC believes that the data does not support the establishment of such a wide standard differential between categories 5171 and 5172. NOJC strongly recommends that the size standard for category 5171 be revised upward to $35 million.

The Petroleum Marketplace

Since decontrol of crude oil and petroleum products, the number of active marketers has declined sharply. A number of factors have contributed to this trend including, the marketing practices of the refiners which supply product to our member marketers; the onset of a national economic recession; and the overall competitive chaos in the petroleum industry as it moved out from under seven years of government controls. In 1980 there were over 18,000 jobberships; in 1982 that number had declined to 11,369. In addition, 32 percent of all NOJC marketers suffer a negative cash flow and 82 percent experienced operating costs greater than those of the previous year.

I hope that the SBA and this subcommittee appreciates the fact that the petroleum industry is highly capital intensive. Our members have a huge cash flow but must operate on margins that are razor thin. While a size standard of $7.5 million may appear to be sufficient, in today's market 66 percent of our members have reported declining profits, along with negative cash flows and greater operating expenses. This industry has also faced the shock of doubling and tripling oil prices and now is at the cutting edge of a market were our suppliers with whom we also compete are trying to drive us into bankruptcy. Unless the SBA recognizes these circumstances and acts positively in response to our concerns, the new size standards will foreclose the bulk of our members from SBA assistance.

Thank you Mr. Chairman and members of the Subcommittee for your consideration of our views.

Chart

Division F - Wholesale Trade

Major Group 51 - Wholesale Trade - Nondurable Goods

		New Proposal	5/3/82 Proposal
5171	Petroleum Bulk Stations and Terminals	$25 million	50 employees
5172	Petroleum and Petroleum Products Wholesalers, Except	$35 million	50 employees

Division G - Retail Trade

Major Group 55 - Automotive Dealers and Gasline Service Stations

5541	Gasoline Service Stations	$3.5 million	25 employees

Major Group 50 - Miscellaneous Retail

5983	Fuel Oil Dealers	$3.5 million	50 employees

MEMBERS OF THE NATIONAL OIL JOBBERS COUNCIL

NOJC represents these member asscoiations:

Alabama Petroleum Marketers Association
Arizona Oil Marketers Association
Arkansas Oil Marketers Association, Inc.
California Independent Oil Marketers Association
Colorado Petroleum Marketers Association
Independent Connecticut Petroleum Association
Florida Petroleum Marketers Association
Georgia Oilmen's Association
Idaho Oil Marketers Association
Illinois Petroleum Marketers Association
Indiana Oil Marketers Association, Inc.
Intermountain Oil Marketers Association
Petroleum Marketers of Iowa
Kansas Oil Marketers Association
Kentucky Petroleum Marketers Association
Louisiana Oil Marketers Association
Maine Oil Dealers Association
Michigan Petroleum Association
Mid-Atlantic Petroleum Distributors Association, Inc.
Mississippi Petroleum Marketers Association
Missouri Oil Jobbers Association
Montana Chapter, Intermountain Oil Marketers Association
Nebraska Petroleum Marketers, Inc.
Independent Oilmen's Association of New England
Fuel Merchants Association of New Jersey
New Mexico Petroleum Marketers
Empire State Petroleum Association
North Carolina Oil Jobbers Association
Northwest Petroleum Association
Ohio Petroleum Marketers Association
Oklahoma Oil Marketers Association
Oregon Oil Jobbers Association
Pennsylvania Petroleum Association, Inc.
South Carolina Oil Jobbers Association
South Dakota Independent Oilmen's Association
Tennessee Oil Marketers Association
Texas Oil Marketers Association
Virginia Petroleum Jobbers Association
Washington Oil Marketers Association
West Virginia Oil Jobbers-Distributors Association
Oil Jobbers of Wisconsin, Inc.
Wyoming Petroleum Marketers Association

National Oil Jobbers Council
1707 H Street, N.W.
Washington, D.C. 20006

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Mr. DAUB. Thank you. I have a few for you. We do appreciate your being here and we do appreciate the contribution that your fine testimony has made to our record. It helps us to better understand some of the peculiarities of businesses not often thought about relative to their relationship with contracting and the Federal Government.

Is the dollar level the best size standard rather than the number of employees?

Ms. NEWPORT. We felt that the proposal just prior to the latest proposal——

Mr. DAUB. The second regulation.

Ms. NEWPORT. Yes. It is that which established number of employees as the standard. It is about as close as we could get to something that we are satisfied with. We only had a problem with one category under the employee standard. That was for heating fuel dealers. They had established a 50-employee standard. We had requested in our formal submission to ask SBA that they raise that to 100. This is solely because heating oil dealers in the crunch of the heating season hire a lot of part-time employees.

Mr. DAUB. Part-time people.

Ms. NEWPORT. That is to run the trucks, to deliver the fuel. Other than that, we would be happy with the employee standard. I guess they were surprised when we came out again with the sales.

Mr. DAUB. Why do you think that occurred?

Ms. NEWPORT. Why?

Mr. DAUB. Yes.

Ms. NEWPORT. We are not sure, frankly. Our general counsel who has dealt primarily with the SBA was rather startled. I think part of it has to do with that you can't possibly understand all of the petroleum industry, especially for small businesses. Maybe they felt that this was a better way to go. I have no way of honestly answering that, what they are thinking.

Mr. DAUB. Let me ask quickly. Is the Nebraska member group that you have, the Nebraska Petroleum Marketers, is that Charley Salem's organization from Lincoln, Nebr.?

Ms. NEWPORT. That is right.

Mr. DAUB. He is a very good friend of mine and who is someone who spends a lot of time educating me with respect to your industry.

Ms. NEWPORT. He's also chairman of our legislative committee.

Mr. DAUB. I am aware.

Ms. NEWPORT. Yes.

Mr. DAUB. I wonder if your group coordinates with former Governor Peabody's group? They are a retail interested organization as well.

Ms. NEWPORT. Yes. They are very active in the local Nebraska affairs, as you know.

Mr. DAUB. So, if you were to be shown in the record, you would prefer us to go back to the way in which the breakdown occurred in the second proposed set of regulations as opposed to the current form that they are in?

Ms. NEWPORT. The stipulation of the employee level here for the heating fuel dealer was a little low.

Mr. DAUB. To this for the one category, to go to 100, Ms. Newport.

Ms. NEWPORT. Yes.

Mr. DAUB. Do you have this information communicated on record in comments to the current proposed regulations, Ms. Newport?

Ms. NEWPORT. Yes. We commented at every opportunity on these proposals.

Mr. DAUB. And have your members been encouraged to do the same the third time around?

Ms. NEWPORT. That I am not sure of. We communicate with them what we do. We always suggest that if they are interested, to do the same thing.

In our latest submission to SBA, we had commented specifically on the new proposal and have not, as far as I know, made a recommendation to go back to the other one.

Mr. DAUB. On page 2 of your testimony you say that the number of active marketers has declined sharply, Ms. Newport.

Ms. NEWPORT. Yes.

Mr. DAUB. Are most of these small businesses, Ms. Newport?

Ms. NEWPORT. Yes.

Mr. DAUB. Is it the economic circumstances in the last year or two more than any other opportunity to do business with the Government that has caused this?

Ms. NEWPORT. I think that there are two primary reasons. There is the general state of the economy. The other is that, after decontrol, there is such a vast and chaotic shakeout in the marketplace that marketing changes from the suppliers' standpoint, refiner supplier standpoint, have had a drastic impact on that. It is the two.

Mr. DAUB. It is a tough business to be in. I assume also the dollar standard will go up and down with the relative price of a barrel of crude and the refined byproduct valuation, petrochemical byproduct, too, so that the dollar size probably does have some germaneness to the ability of the Government to be able to gage how much of the business is going with respect to the set-aside and small business. We appreciate the concern, however, that you do bring to bear on this.

Ms. NEWPORT. Thank you.

Ms. DAUB. I think the Small Business Administration has been more responsive this time around to every single industry concern than they appeared to have been the last two go-arounds. You happen to represent a voice where you are concerned. Now, it is not going to be quite as fair as you like it. That's why I asked if your membership had been encouraged to comment. I think, in terms of numbers, that does get attention.

Ms. NEWPORT. We have encouraged them to comment along the way. I haven't looked at the record so I couldn't tell you specifically.

I think, on the dollar volume basis, Mr. Tesko put it very appropriately. You do have these vast fluctuations and potential fluctuations in case there is another energy crisis. That will happen. You do foreclose the small business because we are capital intensive.

Mr. DAUB. How many of your members are just a one- or two-person shop that simply just has a deal? They just take an order and call in the order. They broker more than they do wholesale.

Ms. NEWPORT. Not very many.

Mr. DAUB. Not very many?

Ms. NEWPORT. No; I would say that would be not very many.

Mr. DAUB. So, in other words, they send the bill out, collect the receipt initially, so they have a volume of business. But they are not maybe more than just an office.

Ms. NEWPORT. There are certainly such circumstances, sir.

Mr. DAUB. They don't have bulk tanks, storage, trucks?

Ms. NEWPORT. Most of our people traditionally have sort of small tank farms; such stations. Holding inventory is a very expensive operation. You will find that is why we have so many different categories. We have people that do a traditional wholesale function and they have a storage facility. Well, they will distribute to someone else who retails the product.

Mr. DAUB. A number of the set-aside minority small businesses that qualify for some of the 8(a) and that kind of work, that which is oil jobber related, they do not have the tank farm and wagons. They are simple a one-or two-person shop. They end up being sized for purposes of getting a chance to do business with the Government. That is why I asked if your membership contained a number of these.

Ms. NEWPORT. The one-person or two-person shop is rare here. You mainly will find people who have gotten rid of their bulk facility and they have a truck fleet. They pull a terminal, a main supplier, and go directly to the retail customer and they can sell at retail themselves. The classic definition of a wholesaler is a little in flux. It has to do with efficiency. What they have done is work their businesses to the bone in order to stay in business. A function of that is getting rid of things that add extra cost that they can't carry.

Mr. DAUB. I don't want to be too bold, but I might suggest that could be a place where the size standard makes a distinction. It looks at the people in the business who are not brokers in the business. They call themselves wholesalers. Indeed, I think that you make out a very good case for those that have large investments and numbers of employees compared to some, I might say, that don't tend to focus on your point, but they argue that just because there is, that is, that they are in the business of brokering, that they ought to be counted as a jobber or wholesaler.

Ms. NEWPORT. I think, obviously, from this discussion, there are various ways to take a look at how someone runs their business. That is what we are asking for, take a look at these standards and do they reflect how the businesses are run. It is a complicated business. It is not unusual to see who, that is, to see someone that you might say is a broker, but they do have 25 employees. There are people that they have got running their trucks.

Mr. DAUB. Sure.

Ms. NEWPORT. They have accountants and bookkeepers there.

Mr. DAUB. Darn right.

Ms. NEWPORT. And they supply maybe 100 service stations at the time.

Mr. DAUB. I want to be as concerned about them as you are. We urge you to continue to keep the information flowing with the SBA. This record, I am sure will be carefully reviewed by them, too. The final decisions that they make with respect to the regulations will be noted.

Thank you very much for coming today. I would like the record to remain open for 5 days in case any of our witnesses would like to submit additional information or, in the event there are other members that have constituents that they would like to have letters or information in the record. With that, I declare this second subcommittee meeting with respect to small business size standards adjourned. Thank you all for coming.

[Whereupon, at 12:05 p.m., the subcommittee adjourned, to reconvene, subject to call of the Chair.]

APPENDIX

federal register

Friday
May 6, 1983

Part II

Small Business Administration

Small Business Size Standards: Proposed Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Revision

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA is proposing to amend its size standards regulations. These changes are being proposed to deal with the effects of inflation, to address long-standing problems of defining small business in certain industries, to provide one set of standards for both the procurement and financial assistance programs, and to improve the readability of the regulations. This action is intended to update the size standards and clarify the regulations. In certain instances, however, existent regulations have been left in place.

DATE: Written comments must be submitted on or before July 5, 1983.

ADDRESS: Submit written comments to: Andrew A. Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Andrew A. Canellas, (202) 653-6373.

SUPPLEMENTARY INFORMATION:

Chronology

This is the fifth notice to appear in the **Federal Register** since March of 1980, concerning SBA's intent to comprehensively revise its size standards. Previous notices were: (1) Advance Notice, March 10, 1980; 45 FR 15442; (2) Notice of Public Hearings, April 8, 1980, 45 FR 23704; (3) Public Notice, September 10, 1980, 45 FR 59587; (4) Second Advance Notice, May 3, 1982, 47 FR 18992.

Summary of Notices

SBA's first advance notice of proposed rulemaking contained size standards based primarily on the industrial structure of each industry. Public and Federal Government agency comments had not been solicited prior to that time. In setting these size standards, SBA categorized industries by the degree of economic competition existing within the industry. Industries were grouped into either a competitive, mixed, or concentrated category and relatively high size standards were assigned to the mixed and, particularly, to the concentrated categories. Lower standards were proposed for competitive industries. Size standards for this notice were primarily stated in terms of number of employees and ranged from 15 to 2500 employees.

In response to this notice, SBA received over 1500 public and agency comments, both in the form of written correspondence and testimony at public hearings. These comments were largely supportive of existing SBA size standards rather than the proposed changes and were primarily directed at 200 of a total of over 800 different industries covered in the proposal. There was little opposition to using a single size standard for SBA programs, and to the general use of employee size standards.

As a result of these comments and the fact that the Nation was in an environment of budgetary constraints, SBA, in the second advance notice (1982), shifted its methodology away from the first advance notice's emphasis on economic analysis and industry competition. SBA focused more heavily on agency program needs and the desires of the public as shown by the comments. Moreover, SBA, as a matter of policy, proposed to lower the size standards thus concentrating SBA resources on smaller firms in the belief that those firms have the greatest needs. As a result, proposed size standards in this second notice ranged from 25 to 500 employees.

SBA received over 500 comments to the second notice from the public and Government agencies. The majority of them were negative.

In the rule that SBA is presently proposing, SBA is attempting to reconcile the various opinions presented by the commentors to each of the advance notices. Thus, the Agency's position reflects both the comments of the private sector and the opinions of the Federal agencies through the prior notices. The essential features of this revision are to propose that: (1) the existing procurement size standards (both receipts and employee size standards) be used as a base for uniform agency size standards; (2) size standards which are currently expressed in terms of annual receipts (chiefly nonmanufacturing industries), remain in annual receipts and be increased for inflation; (3) size standards currently expressed in number of employees (chiefly manufacturing) remain the same; (4) the language of the size standards regulations is revised to relfect these changes and to improve the readability of the regulation.

In effect, virtually no size standards will be lower than the current size standard (with a few exceptions where specific industry problems exist) and many will be higher under this proposal. This particular approach is largely based on the belief that the set of size standards presently in use is logically based, considering the development and general public acceptability of the procurement size standards, the industrial structure of industries, and the needs of Federal programs which have utilized the existent standards for a number of years.

While major changes have occurred in SBA's size standards revision effort, two considerations have remained constant and have been continued over all three notices: (1) size standards are based on 4-digit Standard Industrial Code rather than a combination of SIC categories and numerous product or activity descriptions, which is presently the case; (2) there is a single size standard for each industry that is applicable to all SBA programs. This contrasts with the present variation in size standards among various SBA programs which has traditionally existed. In the past, this variation has resulted in certain firms being eligible for some programs, but ineligible for others, based on size. This new approach aids in providing more uniform SBA size standards applicable to all SBA programs.

Reason for This Proposed Rule

First, as discussed in more detail below, the comments to the advance notices proposing major increases or reductions in size standards for particular industies have been largely unfavorable. SBA highly values the process of public comment and accordingly has adjusted the standards expressed in this notice.

Second, the size of firm eligible to bid on procurements set aside for exclusive small business bidding is of great concern for the Government's procuring agencies, especially the Department of Defense. Since prime purposes of procurement assistance programs are to assure continuation and availability of competition, and to expand the mobilization base, standards for SBA assistance must be sufficiently high to involve firms with substantive capability and sophistication in the procurement process. This proposal is intended to address that concern by not lowering any size standards, and increasing others.

In addition, as a result of comments from the public and procuring agencies, SBA has realized that certain industries and activities within industries are especially sensitive to the size standard used for set-asides. Many size standards in this proposal have been adjusted to accommodate these circumstances.

Third, a compelling reason exists for continuation of the existing size standards, with adjustments for inflation. Many private sector commentors and procuring agencies have indicated their preference for the current procurement size standards. A number of businesses and procuring agencies have been able to plan and operate their activities under the existing size standards. Based on their historical success with using these size standards, they are reluctant to accept any change other than an increase for inflation. SBA has a strong interest in facilitating the administration of the small business set-aside program, and has therefore sought to minimize disruption to this program.

Fourth, inflation is a well-known economic phenomenon by which the real value of any quantity measured in dollars becomes diminished. In recognition of this, SBA, in 1975, made a general adjustment to receipts size standards for inflation and is proposing to do so again. The intent of this proposal is to give the size standards a real value equivalent to that which existed in 1975, or whenever a receipts size standard may have been subsequently established. Firms have been losing SBA eligibility due to inflation, and an inflation adjustment will help to remedy this.

Fifth, the designation of the SBA size standards more specifically in terms of SIC Manual industry classifications has several implications. It follows the explicit statutory intent of Section 3 of the Small Business Act that the SBA size standards vary from industry to industry. It conforms the SBA industry definitions with general governmentwide, business, and economic industry categories, rather than specialized SBA or procurement groupings. Furthermore, SBA's Size Appeals Board precedents have utilized SIC categories in interpreting the present regulation in many instances. While the proposed revision increases the number of size standards, since almost every 4-digit SIC industry would have a separate size standard, the use of SIC industry categories is a common and acceptable procedure.

Firms generally know their SIC industry category, since they may use it for various Government and non-Govenment reporting purposes. In the procurement area, the designation of size standards more specifically in terms of SIC codes could reduce disputes concerning the proper classification of particular procurements, especially where the item or service being procured is similar to commercial items or services. Even where the item may be specialized, use of the SIC categories in the required SBA size standard can reduce disputes by establishing more definite criteria. The use of uniform SIC industry size standards for the various SBA programs also facilitiates the combined usage and interrelation of SBA programs, since firms would be likely to have the same size eligibility for various financial and procurement programs.

Since the SBA size standards are used not only in SBA size determinations, but also by private firms and other agencies for procurement, regulatory, and assistance purposes, stating the size standards in terms of the commonly used SIC industry categories should aid their acceptance and wider use in aid of small business. For example, the Regulatory Flexibility Act indicates that other agencies should generally follow the SBA size standards in considering the effects of their regulations or proposed regulations on small business. This would be facilitated if SBA size standards are established on a uniform SIC Manual industry classification basis.

Sixth, SBA is also proposing to eliminate the use of the residual size standard of 500 employees where no size standard is specified for procurement purposes. This would be replaced by an "ad hoc" size standard authority, similar to what is currently used for financial purposes. The existing residual and ad hoc regulations are presently found in 13 CFR Part 121.3–8 and 121.3–10. The proposed ad hoc authority may be found in § 121.10(b). Since virtually all industries involved in SBA programs are proposed to have a size standard, it is anticipated that the ad hoc provision will be rarely used.

Comments

In response to SBA's second advance notice a total of 516 respondents generated over 1,000 written comments. Of the individual respondents, 481 were from the public while 35 were from Federal agencies and departments. This latest response was down substantially from the first advance notice, which included 1,124 individual respondents. However, the figure of over 500 responses indicated that the public was still concerned with the potential impact of the proposed changes. The responses were critical of the proposed changes in the level of industry size standards by approximately a 4-to-1 margin. While numerous crticisms were voiced, a number of commentors stated similar objections. The most numerous comments included the following: (1) Many felt that the economic conditions of their particular industry argued for a different size standard. In the majority of cases the commentor wanted a higher size standard; (2) a number of commentors were concerned with the lack of distinction between full-time a part-time employees in the second notice. Many felt that this was unfair t firms, especially in the service sector, which employes part-time workers, since part-time and full-time workers are counted equally for size standard purposes; (3) in some industries commentors stated that the standard industrial code was unnecessarily broa in that it included subindustries with different Federal procurement markets. Commentors believed that these subindustries should be separated with different, usually higher, size standards; (4) a number of commentors said that the size standard which was suggested in the second advance notice would be disadvantageous to the procurement set-aside program. Frequently, commentors claimed that the set-aside program could not attract competent bidders in industries with a lower size standard; (5) some commentors were strongly critical of the decision to have a maximum size standard of 500 employees. They argued that such a maximum was arbitrary and failed to recognize that in many industries this would result in an insufficient number of bidders on small business set-asides, and would ignore competitive circumstances; (6) many commentors urged that SBA should strive for continuity and that the employee-based size standards should be retained at their present level. Many of these commentors felt, however, that the size standards based on gross receipts should be revised for inflation to maintain real measures of size unaffected by price trends.

A pattern which is readily apparent from the comments is that a few industries are responsible for most of the comments. Almost half of the total comments, for example, focus on the following 10 industries:

Engineering
Dredging
General Construction (Except Dredging)
Janitorial Services
Shipbuilding and Ship Repair
Research and Development Laboratories
Oil Refining
Base Maintenance
Computer Programming and Data Processing
Special Trade Construction

These industries, and a few others with procurement-related problems, received special attention from the SBA size standards staff when reviewing the public response.

SBA has given considerable weight to the over 2,000 comments received in response to the two advance notices.

The public comment procedure, however, is not regarded as a letter-writing contest. The Office of the Federal Register has pointed out: [1]

> In rulemaking, every voice is important. Agencies cannot count the number of comments received as if they were votes. An agency must consider each issue and use its expertise to reach a solution that meets the letter and spirit of the law.

Nonetheless, SBA regards comments as an informal indicator of the proposed rules' impact.

Numerous commentors to SBA's March 10, 1980, and May 3, 1982, advance notices stated that the proposed changes would adversely affect them or a small group of firms within their industry. There are some individual firms which may be adversely affected by their own loss or a competitor's gain in eligibility. However, SBA anticipates no adverse impact on any industry as a whole or on the economy if the proposed size standards are implemented. One should not confuse the legitimate, but somewhat self-serving, concerns of a comparatively small number of firms with an adverse impact on an entire industry, region, or the economy.

Methodology for Setting Size Standards

As already discussed, the method of setting size standards in the manufacturing industries is simply to retain the present procurement size standards as expressed in employees unless comments have been received which indicate a problem. A similar approach applies to the nonmanufacturing industries. In these, however, an inflationary adjustment is made in an attempt to put the size standards on a real dollar equivalent to the time of the last general adjustment, usually 1975.

The technique for adjusting for inflation focuses on a single measure—the GNP deflator. This measure is used in the National Income Accounts to calculate GNP adjusted for inflation (real GNP). This measure is more sophisticated than other measures of inflation in both method and coverage. It includes the prices of all goods and services in the economy whether paid by consumers, businesses, or the public sector. Thus, it is the most comprehensive price index since it includes all sectors of the economy.

The appropriate adjustment period will vary from industry to industry depending on the year of its last adjustment for inflation. In the majority of nonmanufacturing industries the last adjustment occurred in 1975 based on 1974 data. Thus the deflator for 1974 of 115 (1972=100) is compared with the estimated deflator of 208 for the third quarter of 1982. The total change of +81 percent is then applied to those size standards last adjusted in [illegible] to calculate the proposed revisions. In instances where size standards have been set after 1974, the adjustments are commensurately less to reflect the shorter period in which inflation occurred.

Discussion of Provisions of the Proposed Part 121

Not all sections of this Part 121 reflect a proposed change. Only §§ 121.1 121.2, 121.4, 121.5, 121.7, and 121.10 represent changes to the present regulations. All other sections are merely reproduced as they now exist or slightly amended for clarity. Revisions to these §§ 121.3, 121.6, 121.8, 121.9, and 121.11, may be proposed for change in the future.

This proposal revises the format of the Part 121 size regulation due to the consolidation of the size standards. The general SIC industry size standards are set forth in § 121.2, along with the definition of employees (average for the prior 12 months) and the definition of receipts (average of the most recent 3 completed fiscal years). Section 121.3 contains certain general definitions, including the definition of affiliation (the size of affiliates must be added to the size of the firm for size standard purposes).

Section 121.4 consolidates provisions relating to the application of the size standards to SBA financial assistance programs and to the minority small business and capital ownership program (including 8(a) contracts). This section notes that the applicable size standard is that of the primary activity of the firm (including affiliates). The section retains the existing general alternate small business definition for small business investment companies, development companies, and pollution bond guarantees. The existing 25 percent increase in the size standards for financial assistance when it is to be used by the firm in a labor surplus or redevelopment area is retained (this 25 percent increase does not apply to 8(a) assistance or the surety bond guarantee program). The geographic size differentials for firms in Alaska, Hawaii, and Puerto Rico are not retained.

The proposed regulation provides that size determinations for 8(a) contracting purposes would be made by SBA if necessary for program eligibility purposes or for the award of particular 8(a) contracts. The present provision in the regulation (§ 121.3–17) indicating that size for 8(a) purposes is only determined on a general program basis is deleted.

The procedural provisions of Part 124 of the SBA regulations (minority small business and capital ownership development assistance) are being revised as part of a general revision of Part 124 which is to be published in the near future as a proposed rule. That proposal will include additional procedures regarding 8(a) size certifications and size determinations. 8(a) size determinations will be governed by those regulations, rather than by the procurement size determination procedures of Part 121.

When bidding on regular (non-8(a)) small business set-asides, 8(a) firms are subject to the same size standards and size protest procedures as other bidders.

Section 121.5 contains provisions relating to size eligibility for set-aside procurements and for subcontracting. Firms, including any affiliates must meet the size standard for the procurement (which is designated in the solicitation). The procurement size section provides that procurements are classified in the most appropriate SIC industry size standard category, giving consideration to the descriptions in the regulation and the SIC Manual, the product or service description in the solicitation, and the attachments thereto, the relative value of items in the procurement and the principal nature of the procurement. These factors presently are considered under the SBA size regulations and Size Appeals Board procedures.

The size standard for bidders not manufacturing the product being supplied for a small business set-aside is the appropriate wholesale size standard for the item being supplied, rather than the general 500 employee nonmanufacturer size standard of the present regulation. On set-aside procurements other than those under "small purchase procedures," such nonmanufacturer must furnish the product of a small manufacturer, manufactured or produced in the United States. For purposes of Certificates of Competency on unrestricted procurements, nonmanufacturers must meet the appropriate wholesale size standard.

Section 121.5 also contains size provisions relating to subcontracts on Government procurements under Section 8(d) of the Small Business Act. That section of the Act encourages Government prime contractors to subcontract to small businesses. The subcontracting size standard generally is the industry size standard for the service or item which the subcontractor is providing to the prime contractor. However, on subcontracts pertaining to "small purchase procedures," this proposal provides (as under the present regulation) that the subcontractor, including any affiliates, must have no more than 500 employees.

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[1] The Federal Register, What It Is and How to Use It, National Archives and Records Service, GSA, Washington, D.C. 1980, p. 106.

The proposed regulation also sets forth procedures for protests and size determinations. It is anticipated that other amendments will be proposed at a later time on size procedures and affiliation.

In proposed § 121.7, SBA is proposing a size standard of 500 employees for purposes of award of any funding agreement under the Small Business Innovation Development (SBID) Act of 1982 (Pub. L. 97-219, 15 U.S.C. 638(e)-(k)). The 500 employee standard is the standard currently applicable for research and development (R&D). Although the current definition of R&D is somewhat narrower than the R&D definition included in the SBID Act, SBA believes a uniform standard of 500 employees is most appropriate for this program.

The SBID Act requires certain Federal departments and agencies to set aside a portion of their R&D budgets to fund Small Business Innovation Research (SBIR) programs. Such programs are to adopt uniform, simplified, and standardized procedures to facilitate the participation of small for profit R&D firms in the programs. The legislative history of the SBID Act indicates that Congress intended that R&D firms having less than 500 employees participate in this program. In the judgment of the SBA, the goals and purpose of the SBID Act will be best served by adopting a size standard of 500 employees for participants in SBIR programs regardless of industry.

Proposed §121.7 also specifies that the 500 employee size standard applies to all funding agreements under the SBID Act. "Funding agreement" is defined in the SBID Act as "any contract, grant or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, development or research work funded in whole or in part by the Federal Government." SBA proposes a uniform size standard for all types of funding agreements of the SBID Act for uniformity among SBIR programs.

Summary of Results

The size standards in manufacturing, mining, and transportation are presently stated in terms of "number of employees" for purposes of the SBA procurement program. Under this proposed rule the size standards in these industries for the procurement program would be retained (unless problems have been noted). All procurement size standards will also apply to the SBA financial assistance programs. For wholesale industries, the current procurement standard based on employees would be replaced with a gross receipt size standard to be used for all SBA programs. Sufficient problems have been identified in the following four areas for the SBA to areas for the SBA to propose changing the pertinent size standard from the present procurement size standard.

SIC	Industry	Current procurement size standard (employees)	proposed standard (million)
4131	Intercity and rural highway passenger transportation.	500	3.5
4141	Local passenger transportation charter service.	500	3.5
4142	Passenger transportation charter service, except local.	500	3.5
50-51	Wholesale trade.	500	(¹)

[1] $15 million-$35 million depending on the industry.

The size standards in construction, retail, and services are presently stated in gross receipts. Under the new approach the size standard for both the procurement and financial programs will be based on the present procurement size standard increased for inflation unless problems are known to exist. In the majority of industries in which a number of comments have been received pursuant to the Advance Notices, the inflation adjustment will accommodate the views of the commentors including the procuring agencies. However, in a few industries, specific problems are not resolved through the inflationary adjustment. These industries include the following:

SIC	Industry	Current procurement size standard (Million)	Proposed standard (Million)
1629	Heavy construction (except dredging).	$12.0	$21.5
1629	Dredging component.	9.5	9.5
5812	Eating places (except food services).	(¹)	3.5
5812	Food service component (industrial and institutional food service activities).	6.5	10.0
8911	Architectural and surveying services.	2.0	3.5
8911	Engineering services (except for military and aerospace equipment and for military weapons).	7.5	3.5
8911	Engineering services for military and aerospace equipment and for military weapons (except marine engineering).	7.5	13.5
8911	Naval architecture and marine engineering services.	9.0	11.0
8931 ²	Accounting and auditing.	2.0	5.0
8931 ²	Bookkeeping and billing services.	2.0	3.5

[1] None.

[2] This proposed rule supersedes the proposed rule of November 2, 1982 (47 FR 49664), which proposed a size standard revision of 160 employees for the accounting, auditing, and bookkeeping industry (SIC-8931).

In the Small Business Investment Company, development company, and pollution bond programs the alternate size standard of $6 million in net worth and average net income after Federal income taxes of $2 million will be retained.

It should be reemphasized that the vast majority of proposed adjustments in construction, retail, and services were simply the result of the inflation increase applied to the present procurement receipts size standards. These adjustments and the decision to retain the present employee procurement size standards in the manufacturing industries have resulted in size standard ranges which are sharply different from those proposed during the first and second notices. As presently proposed, these ranges are as follows:

Agriculture: $100,000-$1.0 million; 25-30 employees
Mining: 500 employees
Construction: $9.0 million-$21 million
Manufacturing: 500-1500 employees
Transportation: $3.5-$20.0 million; 500-1500 employees
Wholesale: $15 million-$35 million
Retail: $3.5 million-$13.5 million
Services: $2.5 million-$14.5 million

Compliance With Regulatory Flexibility Act and Executive Order 12291

General

SBA considers that this proposd rule, if promulgated in final form, will have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. In addition, this proposed rule, if promulgated in final form, would constitute a major rule for the purpose of E.O. 12291.

We have indicated above in this supplementary material a description of the reasons why this action is being considered, a statement of the reasons for and objectives of this proposal, and a description of the significant alternatives to this proposal. The legal basis for this proposal is Sections 3 and 5(b) of the Small Business Act, 15 U.S.C. 632 and 634(b).

Immediately below we have set forth an Economic Analysis of this proposal which provides, among other things, a description and estimate of the number of small entities to which the proposal would apply, an identification of overlapping and conflicting Federal rules, a description of the benefits and costs associated with the proposal and those likely to receive such benefits and costs.

Economic Analysis.

The intent of this proposed rule is to unify all size standards, regardless of the program to which they apply, at the level currently used for SBA's procurement set-aside program.[3] In addition, those size standards presently expressed in dollars, basically those for the nonmanufacturing industries, are proposed to be increased for inflation. Finally, a relatively small number of size standards would be changed due to special circumstances.

In a dynamic $3 trillion GNP economy, the fortunes of small businesses are influenced by a great variety of economic and noneconomic forces. When one considers business cycles, changing markets, taxes, fiscal and monetary policies, technological change, foreign trade, regulations, finance, and many other influences on over 7 million small businesses, the significance of size standards can be viewed as quite modest. The basic purpose of this portion of the explanatory material is to estimate the economic impact of the proposed size standards changes on firms which use, or are likely to use, SBA assistance.

The most important consideration to keep in mind in evaluating size standards changes is the fact that only a tiny fraction of the nation's small businesses are ever in a position to use SBA assistance and, thus, be subject to a size standards test. SBA's present size standards cover or define almost [illegible] percent of all firms as small. Under this proposal and previous SBA proposals, the coverage has not varied by more than 1 or 2 percentage points. While the proposed changes are of broad interest to small businesses, this proposal is principally followed by those relatively few businesses which are specifically interested in SBA programs.

An assumption behind the Regulatory Flexibility Act (RFA) and Executive Order 12291 is that regulatory requirements imposed equally on all firms in an industry may result in a disproportionately heavy burden on small firms. Small businesses have repeatedly pointed out that uniform application of the same regulations to them and to larger firms may produce certain inequities. Regulatory requirements which are mandatory require firms to keep records, make reports, and alter their way of doing business in complying with provision of new rules. These burdens and costs may be disproportionately heavier on small firms than on large firms.

A particular type of regulatory impact envisioned by the RFA and the Executive Order does not apply to the SBA size standard definitions of small business. SBA size standards in and of themselves do not require any firm to do anything because participation in SBA programs is entirely voluntary. The purpose of the RFA is to require the Government to consider special treatment for small business to mitigate inequities. Size standards, however, define what a small business is. They are definitions and do not themselves regulate or control business behavior. Thus, size standards do not constitute a regulatory burden in the typical sense.

The next portion of this statement will follow the outline suggested in the SBA pamphlet, "The Regulatory Flexibility Act" (Office of Advocacy, 1980), for the purpose of presenting the economic analysis of this proposal.

Economic Impact Analysis

First, the *demographic impact* of this proposal is the incremental number of firms affected by the proposed change. SBA estimates that about 39,000 additional firms, excluding farms, will be considered small as a result of the proposed rule. The inclusion of these firms is necessary, the agency believes, to restore or maintain parity with the firms defined as small business in 1975, the date of the last general size standards adjustment. Details of this estimate are in Table 2 below. As explained above, since only a tiny fraction of small businesses are interested in SBA assistance, the actual impact will be much smaller than the potential impact indicated by the 39,000 firm estimate. If 5 percent of these newly eligible firms were interested in SBA assistance, then the net demographic effect would be 1,950 additional firms receiving SBA assistance. Out of a total small business universe of over 5 million firms, the additional firms represent four one-hundredths of 1 percent or four small businesses out of every 10,000.

Of its three major programs—financial assistance, procurement assistance, and management assistance—SBA estimates that no more than 5 percent of the Nation's small businesses use these programs. This is a crude estimate because only in its financial assistance program does SBA have an exact count of the number of participating firms. For the procurement and management assistance programs, however, indirect indicators must be employed.

For financial assistance, SBA's major program is the 7(a) bank loan guarantee program. In FY 1982, there were 12,016 guarantees of this type. Direct, Economic Opportunity Loans, and Local Development Loans together accounted for 3,185 additional loans for a grand total of 15,201 firms in the various loan programs.

Data do not exist for the number of firms receiving set-asides, although, in FY 1981, 2,377,000 prime contract actions (over $10,000 value) were set aside.[4] Since one firm may receive more than one contract and since the number of contract actions by far exceeds the number of actual contracts,[5] the number of firms involved in set-asides is a fraction of the 2.4 million contract actions, and this is probably also true of subcontracts. The number of referrals for Certificates of Competency is substantially less than either of tthe other program potentials.

SBA's Procurement Automated Source System, PASS, lists 71,000 firms. This is a list of small firms interested in doing Government work, not a list of those actually performing it. The number of firms receiving contracts, therefore, is probably closer to 71,000 rather than 2.4 million; 71,000 is 2 percent of the 3.7 million firms currently defined as small for SBA procurement purposes (see Table 1).

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[3] The size standards are described in 13 CFR 121.3–8.

[4] Federal Procurement Data Center Special Analysis #4.3B, pg. 1, for FY 1981.

[5] A contract action may include the initial contract, add-ons, change orders, etc.

SBA's management assistance data are recorded by number of persons helped through courses, seminars, workshops, SCORE, ACE, and so on. The number of firms is not tracked and, in any case, is far fewer than the number of persons assisted. Furthermore, when a firm rather than an individual makes use of management assistance, the smallest firms tend to use the assistance, and so it is unlikely that many firms near the size standard would use this form of assistance. In FY 1982, 358,000 people attended management assistance courses and 191,000 received counseling.

Some examples of the estimated impact in representative industries are as follows:

SIC	Name	Total No. firms	Present (small)	Proposed (small)	Change	Change as percent present (small)
1721	Construction painting	27,311	27,133	27,285	+152	0.56
5411	Retail grocery	91,802	89,850	90,703	+853	0.95
7538	Service auto repair	39,884	39,490	39,565	+75	0.19

The second topic for analysis is *economic cost analysis*. These types of costs are inapplicable in the case of size standards. Size standards impose no reporting or recordkeeping costs by themselves. In the event that other Federal agencies decide to use SBA's size standards for regulatory purposes, any economic costs involved would be due to that agency's regulations themselves, not to the size standard.[6]

The *competitive effects* of size standards differ from those normally associated with regulations such as the impact on prices of goods and services, profits, growth, innovation, mergers, and foreign trade. Size standards are not anticipated to have any appreciable effect on these factors.

The aspect of competition upon which the proposed changes may have an effect is in regarding competition as business rivalry. For example, by increasing the size standard and thereby the number of eligible firms in an industry, it could work to the detriment of smaller firms by diluting SBA's fixed resources. A somewhat larger firm, compared to the current size standards may win a set-aside bid or a loan from which it previously has been excluded.

The *estimated impact* of this proposal, which includes forecasts of firm failures, employment losses, community impact, and the effect on economic concentration is not significant.

The likelihood of firm failures and associated unemployment is very remote as a result of SBA's proposed changes. There may be some individual firms (certainly not industries) which have become overly dependent on continued SBA assistance so that a change of eligibility for set-asides would adversely affect them.

This effect may occur in industries where size standards have been increased. With more firms eligible to bid on procurement set-asides, the somewhat larger newly eligible firms may win bids over other smaller businesses. Again, any adverse effect would occur only to firms which have become so dependent on SBA aid that they cannot exist without it.

This proposed rule generally will affect the four sectors of business in which annual receipts size standards are used: construction, wholesale, retail, and services. Based on data from the 1977 Economic Census, the latest available, SBA estimates that this proposed rule will result in additional firms being classified as small. These firms, SBA believes, are not larger in terms of employees or physical output, only in terms of receipts due to inflation. This estimate is detailed in Table 2.

Due to the fact that a very small percentage of all small businesses are concerned with SBA assistance, the number of firms actually affected will be considerably less than 39,000. It is not possible to tell in advance what this number would be, especially since there is no way to determine how many firms would use SBA assistance if the proposed rule is adopted.

Size standards are primarily used for SBA programs and are designed with this purpose in mind. They are not intended as an all-purpose definition of small business, or as appropriate definitions for non-SBA purposes. In the SBA Loan Guarantee program, 7(a), the vast majority of loans go to firms with fewer than 19 employees. Since $2.5 million is the lowest proposed size standard (with the exception of agriculture), firms smaller than this size are unaffected.[7] In FY 1982, the most recent year for such data, 82 percent of SBA loans were to firms with fewer than 19 employees.

Also, in the most recent fiscal year, SBA participated in approximately 12,000 guaranteed loans. While there are incomplete statistics on the total number of loans to small business economy-wide, SBA loans represent a tiny proportion of total small business loans. The normal commercial banking system finances the vast majority of loans to small business. Thus, SBA's presence in total small business financing is quite small.

SBA estimates that on average, 39,000 firms would generate 109 SBA loans. However, since the newly eligible firms will be larger than the currently eligible firms, they most likely will not be interested in SBA loans. This is because the smallest small businesses generate the bulk of SBA loans (85 percent of guarantee loans are to firms with fewer than 19 employees). Thus, the number of new loans generated by the proposed change are estimated to be considerably less than 109. In any case, SBA's lending authority is fixed by Congress, and the total dollars loaned cannot change through a change in the size standards. The economic impact of this proposed rule on small business lending will, therefore, be marginal.

SBA's second major form of small business assistance is the procurement set-aside program. The question raised by this proposed rule in terms of impact is: How many additional firms will be eligible to bid for small business set-asides? at the most, 22,553 firms will become newly eligible.[8] While there are no data on the total number of firms which bid on set-asides, it generally is believed that only a small percentage of small businesses are interested in doing work for the Government. For this reason, of the 22,553 firms, it is likely that only a few hundred might become involved in Government procurement at the prime or subcontract level.

Further, it is impossible to predict which firms or group of firms will gain or lose benefits of SBA procurement assistance. Even without any change in size standards, the group of firms participating in Government contracts this year will differ in an unpredictable way from the group which participated last year.

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[6] The use of SBA size standards for regulatory purposes is optional under the Regulatory Flexibility Act (§ 601(3)).

[7] For retail in general, 55 employees is the approximate equivalent of $2.5 million in annual sales. For services, 65 employees is the approximate equivalent of $2.5 million in annual sales.

[8] From Table 2, total firms changing status minus 13,180 retail firms (for which set-asides are not applicable) and minus 2,984 manufacturing firms whose procurement eligibility remains unchanged.

What impact will the presence of a few hundred additional firms have on the procurement assistance program? While there are several million firms eligible now, only a small percentage participate in Government procurement. The practical effect of this proposed rule, although not quantifiable, may be in having one or two additional firms offering on a particular contract or subcontract. For some contracts, then, there might be perhaps eight bidders rather than seven, with no way of knowing whether the newly designated small firm would even win the contract or how it would affect the bid price of other bidders.

In the procurement assistance program the net effect is actually zero. For example, if a firm currently eligible to bid on a set-aside is too large under the proposed size standards, then a firm below the new standard will get the contract and perform the work. One firm's loss is the other's gain, and the net result is zero.

A third possible area of impact is the extramural use of size standards, that is, their use for other than SBA purposes. These may include Federal, other government, and private sector adaptation of size standards for any number of purposes. SBA usually has no knowledge of the extramural use of its size standards and, thus, this impact is unknown to SBA but may be known to the specific agency which uses small business definitions. The use of SBA size standards as a small business definition, according to the Regulatory Flexibility Act, is advisory not mandatory when used by other Federal agencies (see Sec. 601(3)).

To conclude, the impact of this proposal on the SBA loan program may be on the order of a few million dollars in loans. Funding permitting, loans have always been made to a small firm as long as it is eligible and meets the appropriate loan requirements. For procurement assistance, the impact is indeterminate; if one small business is not awarded a contract, then another small business will get it. Thus, it offsets the firm not receiving the contract. Any impact due to the extramural use of SBA's size standards is due to that agency's regulation, not the size standard itself.

SBA Actions To Comply With the Administrative Procedure Act

The SBA actions described below, which are normally required to comply with the Administrative Procedure Act, summarize the steps taken by the Agency in developing the proposed rule.

The Agency published advance notices on March 10, 1980, and May 3, 1982, on the revision of size standards.

Another notice requesting public comment on the major issues related to the size standards was published on September 10, 1980.

Public hearings were held by SBA in each of its 10 regions in May and June 1980, and may be held again if warranted.

Over 2,000 comments were received and considered in 1980 and 1982.

Comments from over 35 Federal agencies were received and considered in 1980 and 1982.

Meetings and briefings were held with approximately 40 trade associations and both Congressional Small Business Committees in 1980 and similarly in 1982.

Response was made to specific inquiries from hundered of phone calls and letters.

SBA filed, categorized, and took into account all the comments and inquires submitted to the agency.

SBA has provided a very large number of trade publications, magazines and trade association newsletters with interviews and information on the proposed size standards. There have been press releases as well as articlies in such general circulation newspapers as the Washington Post and the Wall Street Journal.

APPENDIX A.—AGENCIES WHICH HAVE ISSUED RULES DEFINING SMALL BUSINESS

Agency	Citation
Civil Aeronautics Board	14 CFR Part 399.
Commodities Futures Trading Commission.	17 CFR Part 1.
Consumer Product Safety Commission.	16 CFR Part 1306.
Department of Commerce	37 CFR Parts 1, 5
Department of Defense	32 CFR Part 1-38, 1-701.1, 7-2003(b), 644.512.
Department of Energy	10 CFR 600.33.
Department of Health and Human Services.	41 CFR Parts 3-1, 3-7, 1-1.701(a).
Department of Labor	30 CFR Parts 55, 56, 57, 75, 77.
Department of the Treasury	26 CFR Parts 1, 11, 1.1244(c)-2, 1.1371-1.
Environmental Protection Agency.	40 CFR Parts 704, 713, 29 CFR Part 104.
National Aeronautics and Space Administration.	41 CFR Ch. 18 Parts 1, 2, 3, 7.
Securities and Exchange Commission	17 CFR 270.3c-2 SEC Release No. 1765.

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) Federal agencies are urged to accord special consideration to small business under their regulations. These rules defining small business may differ from SBA's but they do not conflict with the size standards for SBA's programs, including procurement set asides. When participating in SBA programs, including procurement from small business, Federal agencies must use the SBA size standards as published in 13 CFR Part 121.

TABLE 1.—ESTIMATE OF NUMBER OF SMALL FIRMS COMPARED TO INDUSTRY TOTAL UNDER PROPOSED REVISIONS FOR SIZE STANDARDS—BY INDUSTRY DIVISIONS

SIC division	Total firms	Current small		Proposed small
		Loan	Proc.	
Agriculture Services and Fishing and Forestry[4]	96,342	95,703	96,876	96,709
Mining	23,087	22,687	22,687	22,687
Construction	1,178,136	1,168,963	1,167,239	1,173,413
Manufacturing	299,351	261,127	284,111	284,111
Transp. Comm. Util.[1]	134,775	129,088	131,365	123,024
Wholesale[2]	298,825	273,117	282,481	277,551
Retail	1,567,071	1,514,697	NA	1,527,887
Insurance and Real Estate[3]	87,686	83,183	NA	86,595
Services	1,763,992	1,752,297	1,753,709	1,756,816
Total	5,435,374	5,318,830	3,737,442	5,357,563

[1] Only those industries in which SBA makes loans are listed. Some industries in the Transportation, Communication, and Utilities division are not eligible for SBA programs. Source: 1980 D&B/USEEM, specially prepared for SBA.

[2] Merchants wholesalers, wholesale agents, brokers, and commission merchants are included. Sales outlets owned by manufacturers are not included as a wholesale function.

[3] Only those industries in which SBA makes or proposes to make loans are listed. These are (1) Fire, Casualty, and Marine Insurance Companies, (2) Insurance Agents and Brokers, and (3) Mobile Home Site Operators. Source: County Business Patterns, 1980.

[4] County Business Patterns, 1980.

Sources of information: All data were derived from the various U.S. Economic Censuses of 1977, including special tabulations by the Bureau of the Census for SBA, except as noted below.

Farms are listed separately because, historically, SBA has been an insignificant source of Government farm financing, this role being played by FmHA. Data are from 1978 Census of Agriculture.

SIC division	Total farms	Current small		Proposed small
		Loan	Proc.	
Farms	2,477,000	2,413,000	Na	2,254,000

TABLE 2.—ANALYSIS OF CHANGE

Title	SIC	Estimated number of firms changing status[1]	Percent all firms changing status	Percent small firms changing status[2]
Agr. Servs., Fish., and Forestry	A	0	0	0
Mining	B	0	0	0
Construction	C	+6,450	0.55	0.55
Manufacturing	D	2,984	1.00	1.05
Transp., Commun. and Utils	E	+3,938	2.82	3.06
Wholesale	F	+4,434	1.56	1.62
Retail	G	+13,180	0.84	0.87
Insurance and Real Estate[3]	H	+3,412	3.90	4.10
Services	I	+4,319	0.24	0.25
Total		38,717	0.71	0.73

Title	SIC	Estimated number of farms changing status[2]	Percent all farms changing status	Percent small farms changing status
Farms	A	−159,000	6.4	6.6

[1] Using current loan size standard as a base. 500 employees used for mining as current base. If procurement size standards were used as the base, the number of firms changing status would be fewer.

[2] Based on current loan standard.

[3] Includes only Fire, Casualty, and Marine Insurance; Insurance Agents; and Mobile Homesite Operators.

List of Subjects in 13 CFR Part 121

Small businesses, Size standards.

This proposed rule supersedes the proposed rule of November 2, 1982 (47 FR 49664), which proposed a size standard revision of 100 employees for the accounting, auditing, and bookkeeping industry (SIC–8931).

Accordingly, pursuant to Sections 3 and 5 (b) of the Small Business Act, as amended (15 U.S.C. 632, 634), it is proposed to revise Part 121 of Title 13 of the Code of Federal Regulations as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

Sec.
121.1 Purpose and method of establishing size standards.
121.2 Standard industrial classifications and size standards.
121.3 General definitions.
121.4 Small business for financial programs.
121.5 Small business for government procurement.
121.6 Small business for sales or lease of government property.
121.7 Small business innovation research program.
121.8 Size determinations.
121.9 Protest of small business status.
121.10 Size standards responsibilities.
121.11 Appeals.
121.12 Small business for paying reduced patent fees under Title 35, U.S. Code.

Authority: 15 U.S.C. 632 and 634.

§ 121.1 Purpose and method of establishing size standards.

The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiatives and individual judgment be assured. The preservation and expansion of such competition is basic not only to economic well-being but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for maintenance, repair and construction) be placed with small-business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy of the Nation. (Small Business Act, Section 2(a), (15 U.S.C. 631))

(a) To implement this policy, Congress established the Small Business Administration (SBA) in 1953 and gave it the responsibility to administer a range of programs designed to achieve these and other social goals. Eligibility for SBA programs requires that a firm be "small." The actual setting of size standards, i.e., the size specification of "small" is delegated to the Administrator of the SBA.

(b) Size standards are established primarily to define eligibility for SBA programs and Federal procurement purposes. It is clear, both from the Act itself and from the legislative history, that the specification of what is a small business has been left to administrative, rather than legislative, determination. Size standards vary by industry with particular attention to the structure of the designated industry, Administration policy and the needs of the various Federal programs to which they apply. In its most basic sense, this is the approach of establishing size standards. Factors, among others, which are examined for the purpose of setting size standards include maximum size of firms, average firm size, the extent of industry dominance by large firms, the number of firms, the distribution by firm size of sales and employees in the industry, the presence of Federal procurement, and relation to other SBA programs. The development of size standards is not an exact quantitative procedure. No single measure or simple numerical device is the basis for establishing size standards.

(c) The process of establishing size standards is a complex one. The basic source of data used in establishing size standards include: the Standard Industrial Classification Manual, which is used as a guide in defining industries; U.S. Bureau of the Census, Economic Censuses including Concentration Ratios in Manufacturing, Enterprise Statistics; special tabulations of the Enterprise Statistics and Annual Survey of Manufactures prepared for SBA by the U.S. Bureau of the Census; U.S. Department of Commerce, U.S. Industrial Outlook, Survey of Current Business, and County Business Patterns; Internal Revenue Service, Statistics of Income; Dun and Bradstreet, DMI Market Profile; and special USEEM tabulations; Economic Information Service, Marketing Information; Federal Procurement Data System statistics, SBA's own extensive files of articles and correspondence, and information provided by trade associations.

(d) Under the Regulatory Flexibility Act (Pub. L. 96–354), Federal agencies considering and promulgating regulations relating to small businesses generally utilize small business size criteria developed pursuant to the Small Business Act. However, SBA size standards sometimes may not be appropriate for the particular regulation involved. In such cases where a Federal agency decides the SBA size standard is not appropriate, the agency may, after consultation with the SBA Office of Advocacy, establish a small business definition which is more appropriate to the activities of the agency.

(e) SBA assistance should not be regarded as permanent nor as the primary source of a firm's sales. It should be used to assist a firm to compete in the regular business world, without becoming dependent on continuing Government aid. Small businesses should not rely on Federal assistance from the cradle to the grave, but should plan for the day when they can compete without assistance.

§ 121.2 Standard industrial classification and size standards.

(a) The following industry size standards apply to all SBA programs except the sales of government property (§ 121.8) physical disaster loans (no size standards): Small Business Investment Companies, Development Companies, and Pollution Control Bonds (see § 121.3–4(e)). The industry size standards are set forth in the table following this section. Their relationship to the various SBA programs is set forth in §§ 121.4 and 121.5 of these regulations. The table column labeled "SIC" follows the standard industrial classification code as published by the U.S. Government in the Standard Industrial Classification Manual, Office of Management and Budget, Executive Office of the President. The Standard Industrial Classification Manual is intended to cover the entire field of economic activities. It classifies and defines activities by industry categories and is the source used by SBA as a guide in defining industries for size standards. (It is available for sale from the U.S. Government Printing Office [1] and is in the reference section of most libraries.) The number of employees or annual receipts indicates the maximum allowed for a concern (including its affiliates) to be considered small.

(b) For the purpose of these size standards, the term "number of employees" is a measure of the average employment of a business concern and means its average employment, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or other basis during each of the pay periods of the preceding 12 months. If a business has not been in existence for 12 months "number of employees" means the average employment of such concern and its affiliates during the period that such concern has been in existence based on the number of persons employed during each of the pay periods of the period that such concern has been in business. If a business has acquired an affiliate during the applicable 12 month period, it is necessary, in computing the applicant's number of employees, to include the affiliate's number of employees during the entire period rather than only its employees during the period in which it has been an affiliate. The employees of a former affiliate are not included even if such concern has been an affiliate during a portion of the period.

(c)(1) "Annual receipts" means the 3-year average of the gross income (less returns and allowances, sales of fixed assets, and interaffiliate transactions) of a concern (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, based on its revenues entered on its regular books of account for its most recently completed 3 fiscal years (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and, in the case of a concern subject to U.S. Federal income taxation, reported or to be reported to the U.S. Treasury Department, Internal Revenue Service for Federal income tax purposes.

(2) If a concern has been in business less than 3 years, its average annual receipts for the period in which it has been in business, and multiplying such figure by 52. If a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the applicant's annual receipts to include the affiliate's receipts during the entire applicable accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are not included even if such concern had been affiliated during a portion of the applicable accounting period.

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc	Loan	
	Division A—Agriculture			
	Major Group 01—Agricultural Production—Crops			
0111 to 0191	Agricultural Production—Crops	None	[1] $1.0	[1] $0.1
	Major Group 02—Agricultural Production—Livestock			
0211	Beef Cattle Feedlots (Custom)	None	$10.0	$1.0
0212 to 0291	Agricultural Production—Livestock, except 0211	None	$1.0	$0.1
	Major Group 07—Agricultural Services			
All SIC's		None	None	50
	Major Group 08—Forestry			
All SIC's		None	None	25
	Major Group 09—Fishing, Hunting, and Trapping			
All SIC's		None	None	25
	Division B—Mining			
	Major Group 10—Metal Mining			
1011	Iron Ores	500	None	500

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[1] Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock Number 4101-0066)

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
1021	Copper Ores	500	None	500
1031	Lead and Zinc Ores	500	None	500
1041	Gold Ores	500	None	500
1044	Silver Ores	500	None	500
1051	Bauxite and Other Aluminum Ores	500	None	500
1061	Ferroalloy Ores, Except Vanadium	500	None	500
1081	Metal Mining Services	$2.0	None	$3.5
1092	Mercury Ores	500	None	500
1094	Uranium-Radium-Vanadium Ores	500	None	500
1099	Metal Ores, Not Elsewhere Classified	500	None	500
	Major Group 11—Anthracite Mining			
1111	Anthracite	500	250	500
1112	Anthracite Mining Services	$2.0	250	$3.5
	Major Group 12—Bituminous Coal and Lignite Mining			
1211	Bituminous Coal and Lignite	500	None	500
1213	Bituminous Coal and Lignite Mining Services	$2.0	250	$3.5
	Major Group 13—Oil and Gas Extraction			
1311	Crude Petroleum and Natural Gas	500	None	500
1321	Natural Gas Liquids	500	None	500
1381	Drilling Oil and Gas Wells	500	None	500
1382	Oil and Gas Field Exploration Services	$2.0	$2.0	$3.5
1389	Oil and Gas Field Services, N.E.C	$2.0	$2.0	$3.5
	Major Group 14—Mining and Quarrying of Non-Metallic Minerals, Except Fuels			
1411	Dimension Stone	500	None	500
1422	Crushed and Broken Limestone	500	None	500
1423	Crushed and Broken Granite	500	None	500
1429	Crushed and Broken Stone, N.E.C	500	None	500
1442	Construction Sand and Gravel	500	None	500
1446	Industrial Sand	500	None	500
1452	Bentonite	500	None	500
1453	Fire Clay	500	None	500
1454	Fuller's Earth	500	None	500
1455	Kaolin and Ball Clay	500	None	500
1459	Clay, Ceramic, and Refractory Minerals, N.E.C	500	None	500
1472	Barite	500	None	500
1473	Fluorspar	500	None	500
1474	Potash, Soda, and Borate Minerals	500	None	500
1475	Phosphate Rock	500	None	500
1476	Rock Salt	500	None	500
1477	Sulfur	500	None	500
1479	Chemical and Fertilizer Mineral Mining, N.E.C	500	None	500
1481	Nonmetallic Minerals (Except Fuels) Services	$2.0	$2.0	$3.5
1492	Gypsum	500	None	500
1496	Talc, Soapstone, and Pyrophyllite	500	None	500
1499	Miscellaneous Nonmetallic Minerals, N.E.C	500	None	500
	Division C—Construction			
	Major Group 15—Building Construction—General Contractors and Operative Buildings			
1521	General Contractors—Single-Family Houses	$12.0	$9.5	$21.5
1522	General Contractors—Residential Buildings, Other Than Single-Family	$12.0	$9.5	$21.5
1531	Operative Builders	$12.0	$9.5	$21.5
1541	General Contractors—Industrial Buildings and Warehouses	$12.0	$9.5	$21.5
1542	General Contractors—Nonresidential Buildings, Other Than Industrial Buildings and Warehouses	$12.0	$9.5	$21.5
	Major Group 16—Construction Other Than Building Construction—General Contractors			
1611	Highway and Street Construction, Except Elevated Highways	$12.0	$9.5	$21.5
1622	Bridge, Tunnel, and Elevated Highway Construction	$12.0	$9.5	$21.5
1623	Water, Sewer, Pipe Line, Communication and Power Line Construction	$12.0	$9.5	$21.5
1629	Heavy Construction, Except Dredging	$12.0	$9.5	$21.5
1629	Dredging and Surface Cleanup Activities	$9.5	$9.5	$9.5
	Major Group 17—Construction—Special Trade Contractors			
1711	Plumbing, Heating (Except Electric), and Air Conditioning	$5.0	$5.0	$9.0
1721	Painting, Paper Hanging, and Decorating	$5.0	$5.0	$9.0
1731	Electrical Work	$5.0	$5.0	$9.0
1741	Masonry, Stone Setting, and Other Stonework	$5.0	$5.0	$9.0
1742	Plastering, Drywall, Acoustical, and Insulation Work	$5.0	$5.0	$9.0
1743	Terrazzo, Tile, Marble, and Mosaic Work	$5.0	$5.0	$9.0
1751	Carpentering	$5.0	$5.0	$9.0
1752	Floor Laying and Other Floor Work, N.E.C	$5.0	$5.0	$9.0
1761	Roofing and Sheet Metal Work	$5.0	$5.0	$9.0
1771	Concrete Work	$5.0	$5.0	$9.0
1781	Water Well Drilling	$5.0	$5.0	$9.0
1791	Structural Steel Erection	$5.0	$5.0	$9.0
1793	Glass and Glazing Work	$5.0	$5.0	$9.0

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC *	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc	Loan	
1794	Excavating the Foundation Work	$5.0	$5.0	$8.0
1795	Wrecking and Demolition Work	$5.0	$5.0	$8.0
1796	Installation or Erection of Building Equipment, N.E.C.	$5.0	$5.0	$8.0
1799	Special Trade Contractors, N.E.C.	$5.0	$5.0	$8.0
	Division D—Manufacturing *			
	Major Group 20—Food and Kindred Products			
2011	Meat Packing Plants	500	500	500
2013	Sausages and Other Prepared Meat Products	500	500	500
2016	Poultry Dressing Plants	500	500	500
2017	Poultry and Egg Processing	500	500	500
2021	Creamery Butter	500	500	500
2022	Cheese, Natural and Processed	500	500	500
2023	Condensed and Evaporated Milk	500	500	500
2024	Ice Cream and Frozen Desserts	500	500	500
2026	Fluid Milk	500	500	500
2032	Canned Specialties	1,000	1,000	1,000
2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies *	500	500	500
2034	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes	500	500	500
2035	Pickled Fruits and Vegetables, Vegetable Sauces and Seasonings, and Salad Dressings	500	500	500
2037	Frozen Fruit, Fruit Juices, and Vegetables	500	500	500
2038	Frozen Specialties	500	500	500
2041	Flour and Other Grain Mill Products	500	500	500
2043	Cereal Breakfast Foods	1,000	1,000	1,000
2044	Rice Milling	500	250	500
2045	Blended and Prepared Flour	500	500	500
2046	Wet Corn Milling	750	750	750
2047	Dog, Cat, and Other Pet Food	500	500	500
2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, N.E.C.	500	250	500
2051	Bread and Other Bakery Products, Except Cookies and Crackers	500	250	500
2052	Cookies and Crackers	750	750	750
2061	Cane Sugar, Except Refining Only	500	250	500
2062	Cane Sugar Refining	750	750	750
2063	Beet Sugar	750	750	750
2065	Candy and Other Confectionery Products	500	250	500
2066	Chocolate and Cocoa Proudücts	500	500	500
2067	Chewing Gum	500	500	500
2074	Cottonseed Oil Mills	500	250	500
2075	Soybean Oil Mills	500	500	500
2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean	1,000	1,000	1,000
2077	Animal and Marine Fats and Oils	500	250	500
2079	Shortening, Table Oils, Margarine and Other Edible Fats and Oils, N.E.C.	750	750	750
2082	Malt Beverages	500	500	500
2083	Malt	500	250	500
2084	Wines, Brandy, and Brandy Spirits	500	250	500
2085	Distilled, Rectified, and Blended Liquors	750	750	750
2086	Bottled and Canned Soft Drinks and Carbonated Waters	500	250	500
2087	Flavoring Extracts and Flavoring Sirups, N.E.C.	500	500	500
2091	Canned and Cured Fish and Seafoods	500	250	500
2092	Fresh or Frozen Packaged Fish and Seafoods	500	250	500
2095	Roasted Coffee	500	250	500
2097	Manufactured Ice	500	250	500
2098	Macaroni, Spaghetti, Vermicelli, and Noodles	500	250	500
2099	Food Preparations, N.E.C.	500	250	500
	Major Group 21—Tobacco Manufactures			
2111	Cigarettes	1,000	1,000	1,000
2121	Cigars	500	500	3100
2131	Tobacco (Chewing and Smoking) and Snuff	500	500	500
2141	Tobacco Stemming and Redrying	500	500	500
	Major Group 22—Textile Mill Products			
2211	Broad Woven Fabric Mills, Cotton	1,000	1,000	1,000
2221	Broad Woven Fabric Mills, Man-Made Fiber and Silk	500	500	500
2231	Broad Woven Fabric Mills, Wool (Including Dyeing and Finishing)	500	250	500
2241	Narrow Fabrics and Other Smallwares Mills: Cotton, Wool, Silk, and Man-Made Fiber	500	250	500
2251	Women's Full Length and Knee Length Hosiery	500	250	500
2252	Hosiery, Except Women's Full Length and Knee Length Hosiery	500	250	500
2253	Knit Outerwear Mills	500	250	500
2254	Knit Underwear Mills	500	250	500
2257	Circular Knit Fabric Mills	500	250	500
2258	Warp Knit Fabric Mills	500	250	500
2259	Knitting Mills	500	250	500
2261	Finishers of Broad Woven Fabrics of Cotton	1,000	500	1,000
2262	Finishers of Broad Woven Fabrics of Man-Made Fiber and Silk	500	500	500
2269	Finishers of Textiles, N.E.C.	500	250	500
2271	Woven Carpets and Rugs	750	750	750
2272	Tufted Carpets and Rugs	500	500	500
2279	Carpets and Rugs, N.E.C.	500	500	500
2281	Yarn Spinning Mills: Cotton, Man-Made Fibers, and Silk	500	300	500
2282	Yarn Texturizing, Throwing, and Winding Mills: Cotton, Man-Made Fibers, and Silk	500	250	500
2283	Yarn Mills, Wool, Including Carpet and Rug Yarn	500	250	300
2284	Thread Mills	500	500	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
2291	Felt Goods, Except Woven Felts and Hats	500	250	500
2292	Lace Goods	500	250	500
2293	Paddings and Upholstery Filling	500	250	500
2294	Processed Waste and Recovered Fibers and Flock	500	250	500
2295	Coated Fabrics, Not Rubberized	1,000	250	1,000
2296	Tire Cord and Fabric	1,000	1,000	1,000
2297	Nonwoven Fabrics	500	250	500
2298	Cordage and Twine	500	250	500
2299	Textile Goods, N.E.C.	500	250	
	Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials			
2311	Men's, Youths', and Boys' Suits, Coats and Overcoats	500	250	500
2321	Men's, Youths', and Boys' Shirts (Except Work Shirts) and Nightwear	500	250	500
2322	Men's, Youths', and Boys Underwear	500	250	500
2323	Men's, Youths', and Boys' Neckwear	500	250	500
2327	Men's, Youths', and Boys' Separate Trousers	500	250	500
2328	Men's, Youths', and Boys' Work Clothing	500	250	500
2329	Men's, Youths', and Boys' Clothing, N.E.C.	500	250	500
2331	Women's, Misses', and Juniors' Blouses, Waists, and Shirts	500	250	500
2335	Women's, Misses', and Juniors' Dresses	500	250	500
2337	Women's, Misses', and Juniors' Suits, Skirts, and Coats	500	250	500
2339	Women's, Misses', and Juniors' Outerwear, N.E.C.	500	250	500
2341	Women's, Misses', and Children's and Infants' Underwear and Nightwear	500	250	500
2342	Brassieres, Girdles, and Allied Garments	500	250	500
2351	Millinery	500	250	500
2352	Hats and Caps, Except Millinery	500	250	500
2361	Girls', Children's, and Infants' Dresses, Blouses, Waists, and Shirts	500	250	500
2363	Girls', Children's, and Infants' Coats and Suits	500	250	500
2369	Girls', Children's, and Infants' Outerwear, N.E.C.	500	250	500
2371	Fur Goods	500	250	500
2381	Dress and Work Gloves, Except Knit and All-Leather	500	250	500
2384	Robes and Dressing Gowns	500	250	500
2385	Raincoats and Other Waterproof Outer Garments	500	250	500
2386	Leather and Sheep Lined Clothing	500	250	500
2387	Apparel and Belts	500	250	500
2389	Apparel and Accessories, N.E.C.	500	250	500
2391	Curtains and Draperies	500	250	500
2392	Housefurnishings, Except Curtains and Draperies	500	250	500
2393	Textile Bags	500	250	500
2394	Canvas and Related Products	500	250	500
2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade	500	250	500
2396	Automotive Trimmings, Apparel Findings, and Related Products	500	250	500
2397	Schiffli Machine Embroideries	500	250	500
2399	Fabricated Textile Products, N.E.C.	500	250	500
	Major Group 24—Lumber and Wood Products, Except Furniture			
2411	Logging Camps and Logging Contractors	500	250	500
2421	Sawmills and Planing Mills, General	500	250	500
2426	Hardwood Dimension and Flooring Mills	500	250	500
2429	Special Product Sawmills, N.E.C.	500	250	500
2431	Millwork	500	250	500
2434	Wood Kitchen Cabinets	500	250	500
2435	Hardwood Veneer and Plywood	500	250	500
2436	Softwood Veneer and Plywood	500	250	500
2439	Structural Wood Members, N.E.C.	500	250	500
2441	Nailed and Lock Corner Wood Boxes and Shook	500	250	500
2448	Wood Pallets and Skids	500	250	500
2449	Wood Containers, N.E.C.	500	250	500
2451	Mobile Homes	500	250	500
2452	Prefabricated Wood Buildings and Components	500	250	500
2491	Wood Preserving	500	250	500
2492	Particleboard	500	250	500
2499	Wood Products, N.E.C.	500	250	500
	Major Group 25—Furniture and Fixtures			
2511	Wood Household Furniture, Except Upholstered500	250	500	
2512	Wood Household Furniture, Upholstered	500	250	500
2514	Metal Household Furniture	500	250	500
2515	Mattresses and Bedsprings	500	250	500
2517	Wood Television, Radio, Phonograph, and Sewing Machine Cabinets	750	250	500
2519	Household Furniture, N.E.C.	500	250	500
2521	Wood Office Furniture	500	250	500
2522	Metal Office Furniture	500	500	500
2531	Public Building and Related Furniture	500	250	500
2541	Wood Partitions, Shelving, Lockers, and Office and Store Fixtures	500	250	500
2542	Metal Partitions, Shelving, Lockers, and Office and Store Fixtures	500	250	500
2591	Drapery Hardware and Window Blinds and Shades	500	250	500
2599	Furniture and Fixtures, N.E.C.	500	250	500
	Major Group 26—Paper and Allied Products			
2611	Pulp Mills	750	750	750
2621	Paper Mills, Except Building Paper Mills	750	750	750

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
2631	Paperboard Mills	750	750	750
2641	Paper Coating and Glazing	500	500	500
2642	Envelopes	500	250	500
2643	Bags, Except Textile Bags	500	500	500
2645	Die-Cut Paper and Paperboard and Cardboard	500	250	500
2646	Pressed and Molded Pulp Goods	750	750	750
2647	Sanitary Paper Products	500	500	500
2648	Stationery, Tablets, and Related Products	500	2500	500
2649	Converted Paper and Paperboard Products, N.E.C.	500	500	500
2651	Folding Paperboard Boxes	500	250	500
2652	Set-up Paperboard Boxes	500	250	500
2653	Corrugated and Solid Fiber Boxes	500	500	500
2654	Sanitary Food Containers	750	750	750
2655	Fiber Cans, Tubes, Drums, and Similar Products	500	500	500
2661	Building Paper and Building Board Mills	750	750	750
	Major Group 27—Printing, Publishing, and Allied Industries			
2711	Newspapers: Publishing, Publishing and Printing	500	250	500
2721	Periodicals: Publishing, Publishing and Printing	500	250	500
2731	Books: Publishing, Publishing and Printing	500	250	500
2732	Book Printing	500	250	500
2741	Miscellaneous Publishing	500	250	500
2751	Commercial Printing, Letterpress, and Screen	500	250	500
2752	Commercial Printing, Lithographic	500	250	500
2753	Engraving and Plate Printing	500	250	500
2754	Commercial Printing, Gravure	500	250	500
2761	Manifold Business Forms	500	250	500
2771	Greeting Card Publishing	500	250	500
2782	Blankbooks, Looseleaf Binders and Devices	500	250	500
2789	Bookbinding and Related Work	500	250	500
2791	Typesetting	500	250	500
2793	Photoengraving	500	250	500
2794	Electrotyping and Stereotyping	500	250	500
2795	Lithographic Platemaking and Related Services	500	250	500
	Major Group 28—Chemicals and Allied Products			
2812	Alkalies and Chlorine	1,000	1,000	1,000
2813	Industrial Gases	1,000	1,000	1,000
2816	Inorganic Pigments	1,000	1,000	1,000
2819	Industrial Inorganic Chemicals, N.E.C.	1,000	1,000	1,000
2821	Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers	750	750	750
2822	Synthetic Rubber (Vulcanizable Elastomers)	1,000	1,000	1,000
2823	Cellulosic Man-Made Fibers	1,000	1,000	1,000
2824	Synthetic Organic Fibers, Except Cellulosic	1,000	1,000	1,000
2831	Biological Products	500	250	500
2833	Medicinal Chemicals and Botanical Products	750	250	750
2834	Pharmaceutical Preparations	750	750	750
2841	Soap and Other Detergents, Except Specialty Cleaners	750	750	750
2842	Specialty Cleaning, Polishing, and Sanitation Preparations	500	500	500
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils and Assistants	500	250	500
2844	Perfumes, Cosmetics, and Other Toilet Preparations	500	500	500
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	500	250	500
2861	Gum and Wood Chemicals	500	500	500
2865	Cyclic (Coal Tar) Crudes, and Cyclic Intermediates, Dyes, and Organic Pigments (Lakes and Toners)	750	750	750
2869	Industrial Organic Chemicals, N.E.C.	1,000	1,000	1,000
2873	Nitrogenous Fertilizers	1,000	1,000	1,000
2874	Phosphatic Fertilizers	500	500	500
2875	Fertilizers, Mixing Only	500	500	500
2879	Pesticides and Agriculture Chemicals, N.E.C.	500	500	500
2891	Adhesives and Sealants	500	250	500
2892	Explosives	750	750	750
2893	Printing Ink	500	250	500
2895	Carbon Black	500	500	500
2899	Chemicals and Chemical Preparations, N.E.C.	500	250	500
	Major Group 29—Petroleum Refining and Related Industries			
2911	Petroleum Refining[3]	1,500	1,500	1,500
2951	Paving Mixtures and Blocks	500	250	500
2952	Asphalt Felts and Coatings	750	750	750
2992	Lubricating Oils and Greases	500	500	500
2999	Products of Petroleum and Coal N .C.	500	250	500
	Major Gro p 30—Rubber and Miscellaneous Plastics Products			
3011	Tires and Inner Tubes[4]	1,000	1,000	1,000
3021	Rubber and Plastics Footwear	1,000	1,000	1,000
3031	Reclaimed Rubber	750	750	750
3041	Rubber and Plastics Hose and Be	500	500	500
3069	Fabricated Rubber Products N.E.	500	500	500
3079	Miscellaneous Plastics Products	500	250	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
	Major Group 31—Leather and Leather Products			
3111	Leather Tanning and Finishing	500	250	500
3131	Boot and Shoe Cut Stock and Findings	500	250	500
3142	House Slippers	500	250	500
3143	Men's Footwear, Except Athletic	500	500	500
3144	Women's Footwear, Except Athletic	500	500	500
3149	Footwear, Except Rubber, N.E.C	500	500	500
3151	Leather Gloves and Mittens	500	250	500
3161	Luggage	500	250	500
3171	Women's Handbags and Purses	500	250	500
3172	Personal Leather Goods, Except Women's Handbags and Purses	500	250	500
3199	Leather Goods, N.E.C	500	250	500
	Major Group 32—Stone, Clay, Glass, and Concrete Products			
3211	Flat Glass	1,000	1,000	1,000
3221	Glass Containers	750	750	750
3229	Pressed and Blown Glass and Glassware, N.E.C	750	750	750
3231	Glass Products, Made of Purchased Glass	500	250	500
3241	Cement, Hydraulic	750	750	750
3251	Brick and Structural Clay Tile	500	250	500
3253	Ceramic Wall and Floor Tile	500	500	500
3255	Clay Refractories	500	250	500
3259	Structural Clay Products, N.E.C	500	250	500
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories	750	500	750
3262	Vitreous China Table and Kitchen Articles	500	500	500
3263	Fine Earthenware (Whiteware) Table and Kitchen Articles	500	500	500
3264	Porcelain Electrical Supplies	500	500	500
3269	Pottery Products, N.E.C	500	250	500
3271	Concrete Block and Brick	500	250	500
3272	Concrete Products, Except Block and Brick	500	250	500
3273	Ready-Mixed Concrete	500	250	500
3274	Lime	500	500	500
3275	Gypsum Products	1,000	1,000	1,000
3281	Cut Stone and Stone Products	500	250	500
3291	Abrasive Products	500	250	500
3292	Asbestos Products	750	750	750
3293	Gaskets, Packing, and Sealing Devices	500	500	500
3295	Minerals and Earths, Ground or Otherwise Treated	500	250	500
3296	Mineral Wool	750	750	750
3297	Nonclay Refractories	750	750	750
3299	Nonmetallic Mineral Products, N.E.C	500	250	500
	Major Group 33—Primary Metal Industries			
3312	Steel Furnaces (Including Coke Ovens), Steel Works, and Rolling Mills	1,000	1,000	1,000
3313	Electrometallurgical Products	750	750	750
3315	Steel Wire Drawing and Steel Nails and Spikes	1,000	1,000	1,000
3316	Cold Rolled Steel Sheet, Strip, and Bars	1,000	1,000	1,000
3317	Steel Pipe and Tubes	1,000	1,000	1,000
3321	Gray Iron Foundries	500	500	500
3322	Malleable Iron Foundries	500	500	500
3324	Steel Investment Foundries	500	500	500
3325	Steel Foundries, N.E.C	500	500	500
3331	Primary Smelting and Refining of Copper	1,000	1,000	1,000
3332	Primary Smelting and Refining of Lead	1,000	1,000	1,000
3333	Primary Smelting and Refining of Zinc	750	750	750
3334	Primary Production of Aluminum	1,000	1,000	1,000
3339	Primary Smelting and Refining of Nonferrous Metals, N.E.C.	750	750	750
3341	Secondary Smelting and Refining on Non-ferrous Metals	500	250	500
3351	Rolling, Drawing, and Extruding of Copper	750	750	750
3353	Aluminum Sheet, Plate, and Foil	750	750	750
3354	Aluminum Extruded Products	750	750	750
3355	Aluminum Rolling and Drawing, N.E.C	750	750	750
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum	750	750	750
3357	Drawing and Insulating of Nonferrous Wire	1,000	1,000	1,000
3361	Aluminum Foundries (Castings)	500	250	500
3362	Brass, Bronze, Copper, Copper Base Alloy Foundries (Castings)	500	250	500
3369	Nonferrous Foundries (Castings), N.E.C	500	250	500
3398	Metal Heat Treating	750	750	750
3399	Primary Metal Products, N.E.C	750	750	750
	Major Group 34—Fabricated Metal Products, Except Machinery and Transportation Equipment			
3411	Metal Cans	1,000	1,000	1,000
3412	Metal Shipping Barrels, Drums, Kegs, and Pails	500	500	500
3421	Cutlery	500	250	500
3423	Hand and Edge Tools, Except Machine Tools and Hand Saws	500	250	500
3425	Hand Saws and Saw Blades	500	250	500
3429	Hardware, N.E.C	500	250	500
3431	Enameled Iron and Metal Sanitary Ware	750	750	750
3432	Plumbing Fixture Fittings and Trim (Brass Goods)	500	500	500
3433	Heating Equipment, Except Electric and Warm Air Furnaces	500	500	500
3441	Fabricated Structural Metal	500	250	500
3442	Metal Doors, Sash, Frames, Molding, and Trim	500	250	500
3443	Fabricated Plate Work (Boiler Shops)	500	250	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
3444	Sheet Metal Work	500	250	500
3446	Architectural and Ornamental Metal Work	500	250	500
3448	Prefabricated Metal Buildings and Components	500	250	500
3449	Miscellaneous Metal Work	500	250	500
3451	Screw Machine Products	500	250	500
3452	Bolts, Nuts, Screws, Rivets, and Washers	500	500	500
3462	Iron and Steel Forgings	500	500	500
3463	Nonferrous Forgings	500	250	500
3465	Automotive Stampings	500	250	500
3466	Crowns and Closures	500	250	500
3469	Metal Stampings, N.E.C	500	250	500
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring	500	250	500
3479	Coating, Engraving, and Allied Services, N.E.C	500	250	500
3482	Small Arms Ammunition	1,000	1,000	1,000
3483	Ammunition, Except for Small Arms, N.E.C	1,500	1,000	1,500
3484	Small Arms	1,000	1,000	1,000
3489	Ordnance and Accessories, N.E.C	500	250	500
3493	Steel Springs, Except Wire	500	500	500
3494	Valves and Pipe Fittings, Except Plumbers' Brass Goods	500	500	500
3495	Wire Springs	500	250	500
3496	Miscellaneous Fabricated Wire Products	500	250	500
3497	Metal Foil and Leaf	500	500	500
3498	Fabricated Pipe and Fabricated Pipe Fittings	500	250	500
3499	Fabricated Metal Products, N.E.C	500	500	500
	Major Group 35—Machinery, Except Electrical			
3511	Steam, Gas, and Hydraulic Turbines and Turbine Generator Set Units	1,000	1,000	1,000
3519	Internal Combustion Engines, N.E.C	1,000	1,000	1,000
3523	Farm Machinery and Equipment	500	500	500
3524	Garden Tractors and Lawn and Garden Equipment	500	500	500
3531	Construction Machinery and Equipment	750	750	750
3532	Mining Machinery and Equipment, Except Oil Field Machinery and Equipment	500	500	500
3533	Oil Field Machinery and Equipment	500	500	500
3534	Elevators and Moving Stairways	500	500	500
3535	Conveyors and Conveying Equipment	500	250	500
3536	Hoists, Industrial Cranes, and Monorail Systems	500	500	500
3537	Industrial Trucks, Tractors, Trailers, and Stackers	750	750	750
3541	Machine Tools, Metal Cutting Types	500	500	500
3542	Machine Tools, Metal Forming Types	500	500	500
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds	500	250	500
3545	Machine Tool Accessories and Measuring Devices	500	250	500
3546	Power Driven Hand Tools	500	500	500
3547	Rolling Mill Machinery and Equipment	500	500	500
3549	Metalworking Machinery, N.E.C	500	500	500
3551	Food Products Machinery	500	250	500
3552	Textile Machinery	500	250	500
3553	Woodworking Machinery	500	250	500
3554	Paper Industries Machinery	500	250	500
3555	Printing Trades Machinery and Equipment	500	500	500
3559	Special Industry Machinery, N.E.C	500	250	500
3561	Pumps and Pumping Equipment	500	500	500
3562	Ball and Roller Bearings	750	750	750
3563	Air and Gas Compressors	500	500	500
3564	Blowers and Exhaust and Ventilation Fans	500	250	500
3565	Industrial Patterns	500	250	500
3566	Speed Changers, Industrial High Speed Drivers, and Gears	500	500	500
3567	Industrial Process Furnaces and Ovens	500	250	500
3568	Mechanical Power Transmission Equipment, N.E.C	500	500	500
3569	General Industrial Machinery and Equipment, N.E.C	500	250	500
3572	Typewriters	1,000	1,000	1,000
3573	Electronic Computing Equipment	1,000	1,000	1,000
3574	Calculating and Accounting Machines, Except Electronic Computing Equipment	1,000	1,000	1,000
3576	Scales and Balances, Except Laboratory	500	250	500
3579	Office Machines, N.E.C	500	500	500
3581	Automatic Merchandising Machines	500	250	500
3582	Commercial Laundry, Dry Cleaning, and Pressing Machines	500	250	500
3585	Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment	750	750	750
3586	Measuring and Dispensing Pumps	500	500	500
3589	Service Industry Machines, N.E.C	500	250	500
3592	Carburetors, Pistons, Piston Rings, and Valves	500	250	500
3599	Machinery, Except Electronical, N.E.C	500	250	500
	Major Group 36—Electrical and Electronic Machinery, Equipment, and Supplies			
3612	Power, Distribution, and Specialty Transformers	750	750	750
3613	Switchgear and Switchboard Apparatus	750	750	750
3621	Motors and Generators	1,000	1,000	1,000
3622	Industrial Controls	750	750	750
3623	Welding Apparatus, Electric	500	250	500
3624	Carbon and Graphite Products	750	750	750
3629	Electrical Industrial Apparatus, N.E.C.	500	500	500
3631	Household Cooking Equipment	750	750	750
3632	Household Refrigerators and Home and Farm Freezers	1,000	1,000	1,000
3633	Household Laundry Equipment	1,000	1,000	1,000
3634	Electric Housewares and Fans	750	750	750

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
3635	Household Vacuum Cleaners	750	750	750
3636	Sewing Machines	750	750	750
3639	Household Appliances, N.E.C.	500	500	500
3641	Electric Lamps	1,000	1,000	1,000
3643	Current-Carrying Wiring Devices	500	500	500
3644	Noncurrent-Carrying Wiring Devices	500	500	500
3645	Residential Electric Light Fixtures	500	250	500
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures	500	250	500
3647	Vehicular Lighting Equipment	500	250	[illegible]
3648	Lighting Equipment, N.E.C.	500	250	[illegible]
3651	Radio and Television Receiving Sets, Except Communication Types	750	750	[illegible]
3652	Phonograph Records and Pre-recorded Magnetic Tape	750	750	[illegible]
3661	Telephone and Telegraph Apparatus	1,000	1,000	1,000
3662	Radio and Television Transmitting, Signaling, and Detection Equipment and Apparatus	750	750	750
3671	Radio and Television Receiving Type Electron Tubes, Except Cathode Ray	1,000	1,000	1,000
3672	Cathode Ray Television Picture Tubes	750	750	750
3673	Transmitting, Industrial, and Special Purpose Electron Tubes	750	750	750
3674	Semiconductors and Related Devices	500	500	500
3675	Electronic Capacitors	500	500	500
3676	Resistors, for Electronic Applications	500	500	500
3677	Electronic Coils, Transformers, and Other Inductors	500	500	500
3678	Connectors, for Electronic Applications	500	500	500
3679	Electronic Components, N.E.C.	500	500	500
3691	Storage Batteries	500	500	500
3692	Primary Batteries, Dry and Wet	1,000	1,000	1,000
3693	Radiographic X-ray, Fluoroscopic X-ray, Therapeutic X-ray, and Other X-ray Apparatus and Tubes; Electromedical and Electrotherapeutic Apparatus	500	500	500
3694	Electrical Equipment for Internal Combustion Engines	750	750	750
3699	Electrical Machinery, Equipment, and Supplies, N.E.C.	500	500	500
	Major Group 37—Transportation Equipment			
3711	Motor Vehicles and Passenger Car Bodies	1,000	1,000	1,000
3713	Truck and Bus Bodies	500	250	500
3714	Motor Vehicle Parts and Accessories	500	500	500
3715	Truck Trailers	500	500	500
3716	Motor Homes	500	250	1,000
3721	Aircraft	1,500	1,500	1,500
3724	Aircraft Engines and Engine Parts	1,000	1,000	1,000
3728	Aircraft Parts and Auxiliary Equipment N.E.C.	1,000	1,000	1,000
3731	Ship Building and Repairing	1,000	1,000	1,000
3732	Boat Building and Repairing	500	250	500
3743	Railroad Equipment	1,000	750	1,000
3751	Motorcycles, Bicycles, and Parts	500	500	500
3761	Guided Missiles and Space Vehicles	1,000	250	1,000
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts	1,000	1,000	1,000
3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment, N.E.C.	1,000	1,000	1,000
3792	Travel Trailers and Campers	500	250	500
3795	Tanks and Tank Components	1,000	1,000	1,000
3799	Transportation Equipment, N.E.C.	500	250	500
	Major Group 38—Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optional Goods; Watches and Clocks			
3811	Engineering, Laboratory, Scientific, and Research Instruments and Associated Equipment	500	500	500
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances	500	500	500
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables, and Related Products	500	500	500
3824	totalizing Fluid Meters and Counting Device	500	500	500
3825	Instruments for Measuring and Testing of Electricity and Electrical Signals	500	500	500
3829	Measuring and Controlling Devices, N.E.C.	500	500	500
3832	Optical Instruments and Lenses	500	250	500
3841	Surgiol and Medical Instruments and Apparatus	500	250	500
3842	Orthopedic, Prosthetic, and Surgical Appliances and Supplies	500	250	500
3843	Dental Equipment and Supplies	500	250	500
3851	Ophthalmic Goods	500	250	500
3861	Photographic Equipment and Supplies	500	500	500
3873	Watches, Clocks, Clockwork Operated Devices, and Parts	500	500	500
	Major Group 39—Miscellaneous Manufacturing Industries			
3911	Jewelry, Precious Metal	500	250	500
3914	Silverware, Plated Ware, and Stainless Steel Ware	500	500	500
3915	Jewelers' Findings and Materials, and Lapidary Work	500	250	500
3931	Musical Instruments	500	250	500
3942	Dolls	500	250	500
3944	Games, Toys, and Children's Vehicles; Except Dolls and Bicycles	500	250	500
3949	Sporting and Athletic Goods, N.E.C.	500	250	500
3951	Pens, Mechanical Pencils, and Parts	500	500	500
3952	Lead Pencils, Crayons, and Artists' Materials	500	250	500
3953	Marking Devices	500	250	500
3955	Carbon Paper and Inked Ribbons	500	250	500
3961	Costume Jewelry and Costume Novelties, Except Precious Metal	500	250	500
3962	Feathers, Plumes, and Artificial Trees and Flowers	500	250	500
3963	Buttons	500	250	500
3964	Needles, Pins, Hooks and Eyes, and Similar Notions	500	250	500
3991	Brooms and Brushes	500	250	500
3993	Signs and Advertising Displays	500	250	500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
3995	Burial Caskets	500	250	500
3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, N.E.C.	750	750	750
3999	Manufacturing Industries, N.E.C.	500	250	500
	Division E—Transportation, Communications, Electric, Gas, and Sanitary Services			
	Major Group 40—Railroad Transportation			
4011	Railroad: Line-haul Operating	500	$1.5	1,500
4013	Switching and Terminal Establishments	500	$1.5	500
	Major Group 41—Local and Suburban Transit and Interurban Highway Passenger Transportation			
4111	Local and Suburban Transit	500	$1.5	$3.5
4119	Local Passenger Transportation, N.E.C	500	$1.5	$3.5
4121	Taxicabs	500	$1.5	$3.5
4131	Intercity and Rural Highway Passenger Transportation	500	$1.5	$3.5
4141	Local Passenger Transportation Charter Service	500	$1.5	$3.5
4142	Passenger Transportation Charter Service, Except Local	500	$1.5	$3.5
4151	School Buses	500	$1.5	$3.5
4171	Terminal and Joint Terminal Maintenance Facilities for Motor Vehicle Passenger Transportation	$2.0	$2.0	$3.5
4172	Maintenance and Service Facilities for Motor Vehicle Passenger Transportation	$2.0	$2.0	$3.5
	Major Group 42—Motor Freight Transportation and Warehousing			
4212	Local Trucking Without Storage[6]	$7.0	$6.5	$12.5
4213	Trucking, Except Local	$7.0	$6.5	$12.5
4214	Local Trucking With Storage	$7.0	$6.5	$12.5
4221	Farm Product Warehousing and Storage	$7.0	$6.5	$12.5
4222	Refrigerated Warehousing	$7.0	$6.5	$12.5
4224	Household Goods Warehousing and Storage	$7.0	$6.5	$12.5
4225	General Warehousing and Storage	$7.0	$6.5	$12.5
4226	Special Warehousing and Storage, N.E.C	$7.0	$6.5	$12.5
4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	$2.0	$2.0	$3.5
	Major Group 44—Water Transportation[7]			
4411	Deep Sea Foreign Transportation	500	$1.5	500
4421	Transportation to and Between Non-contiguous Territories	500	$1.5	500
4422	Coastwise Transportation	500	$1.5	500
4423	Intercoastal Transportation	500	$1.5	500
4431	Great Lakes-St. Lawrence Seaway Transportation	500	$1.5	500
4441	Transportation on Rivers and Canals	500	$1.5	500
4452	Ferries	500	$1.5	500
4453	Lighterage	500	$1.5	500
4454	Towing and Tugboat Service	$2.0	$2.0	$3.5
4459	Local Water Transportation, N.E.C	500	$1.5	500
4463	Marine Cargo Handling	$7.5	$1.5	$12.5
4464	Canal Operation	$2.0	$2.0	$3.5
4469	Water Transportation Services, N.E.C	$2.0	$2.0	$3.5
	Major Group 45—Transportation by Air[7]			
4511	Air Transportation, Certificated Carriers	1,500	1,000	1,500
4521	Air Transportation, Noncertificated Carriers[4]	1,000	1,000	1,500
4582	Airports and Flying Fields	$2.0	$2.0	$3.5
4583	Airport Terminal Services	$2.0	$2.0	$3.5
	Major Group 46—Pipe Lines, Except Natural Gas			
4612	Crude Petroleum Pipe Lines	None	None	1,500
4613	Refined Petroleum Pipe Lines	None	None	1,500
4619	Pipe Lines, N.E.C.	None	None	$20.0
	Major Group 47—Transportation Services			
4712	Freight Forwarding	$7.0	$6.5	$12.5
4722	Arrangement of Passenger Transportation	$2.0	$2.0	$3.5
4723	Arrangement of Transportation of Freight and Cargo	$2.0	$2.0	$3.5
4742	Rental of Railroad Cars With Care of Lading	$2.0	$2.0	$3.5
4743	Rental of Railroad Cars Without Care of Lading	$2.0	$2.0	$3.5
4782	Inspection and Weighing Services Connected With Transportation	$2.0	$2.0	$3.5
4783	Packing and Crating	$7.0	$6.5	$12.5
4784	Fixed Facilities for Handling Motor Vehicle Transportation, N.E.C	$2.0	2.0	$3.5
4789	Services Incidental to Transportation, N.E.C.	$2.0	$2.0	$3.5
	Major Group 48—Communications			
4832	Radio Broadcasting	None	$2.0	$3.5
4833	Television Broadcasting	None	$5.0	$7.0
4899	Communication Services, N.E.C	$2.0	$2.0	$7.5
	Major Group 49—Electric, Gas, and Sanitary Services			
4941	Water Supply	None	$2.5	$3.5

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc	Loan	
49[illegible]	Sewerage Systems	None	$1.5	$3.5
4953	Refuse Systems[6]	$3.5	$2.0	$6.0
4959	Sanitary Services, N.E.C.	$2.0	$2.0	$3.5
4961	Steam Supply	None	None	$6.0
4971	[illegible]ation Systems	None	None	$3.5
Division F—Wholesale Trade				
Major Group 50—Wholesale Trade—Durable Goods				
5012	Automobiles and Other Motor Vehicles	500	$22.0	$35
5013	Automotive Parts and Supplies	500	$9.5	$15.0
5014	Tires and Tubes	500	$22.0	$25.0
5021	Furniture	500	$9.5	$15.0
5023	Home Furnishings	500	$9.5	$15.0
5031	Lumber, Plywood, and Millwork	500	$9.5	$25.0
5039	Construction Materials, N.E.C.	500	$14.5	$15.0
5041	Sporting and Recreational Goods and Supplies	500	$14.5	$15.0
5042	Toys and Hobby Goods and Supplies	500	$14.5	$15.0
5043	Photographic Equipment and Supplies	500	$9.5	$25.0
5051	Metals Service Centers and Offices	500	$14.5	$35.0
5052	Coal and Other Minerals and Ores	500	$9.5	$35.0
5063	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials	500	$22.0	$25.0
5064	Electrical Appliances, Television and Radio Sets	500	$14.5	$25.0
5065	Electronic Parts and Equipment	500	$9.5	$15.0
5072	Hardware	500	$9.5	$15.0
5074	Plumbing and Heating Equipment and Supplies (Hydronics)	500	$14.5	$15.0
5075	Warm Air Heating and Air Conditioning Equipment and Supplies	500	$14.5	$15.0
5078	Refrigeration Equipment and Supplies	500	$14.5	$15.0
5081	Commercial Machines and Equipment	500	$22.0	$25.0
5082	Construction and Mining Machinery and Equipment	500	$14.5	$25.0
5083	Farm and Garden Machinery and Equipment	500	$22.0	$25.0
5084	Industrial Machinery and Equipment	500	$14.5	$15.0
5085	Industrial Supplies	500	$14.5	$15.0
5086	Professional Equipment and Supplies	500	$9.5	$15.0
5087	Service Establishment Equipment and Supplies	500	$9.5	$15.0
5088	Transportation Equipment and Supplies, Except Motor Vehicles	500	$9.5	$15.0
5093	Scrap and Waste Materials	500	$9.5	$25.0
5094	Jewelry, Watches, Diamonds and Other Precious Stones	500	$9.5	$15.0
5099	Durable Goods, N.E.C.	500	$9.5	$15.0
5111	Printing and Writing Paper	500	$14.5	$35.0
5112	Stationery Supplies	500	$9.5	$15.0
5113	Industrial and Personal Service Paper	500	$22.0	$25.0
5122	Drugs, Drug Proprietaries, and Druggists' Sundries	500	$14.5	$25.0
5133	Piece Goods (Woven Fabrics)	500	$14.5	$15.0
5134	Notions and Other Dry Goods	500	$14.5	$15.0
5136	Men's and Boys' Clothing and Furnishings	500	$9.5	$15.0
5137	Women's, Children's and Infants' Clothing and Accessories	500	$9.5	$15.0
5139	Footwear	500	$14.5	$15.0
5141	Groceries, General Line	500	$22.0	$35.0
5142	Frozen Foods	500	$22.0	$25.0
5143	Dairy Products	500	$14.5	$25.0
5144	Poultry and Poultry Products	500	$9.5	$15.0
5145	Confectionery	500	$9.5	$15.0
5146	Fish and Seafoods	500	$9.5	$15.0
5147	Meats and Meat Products	500	$14.5	$25.0
5148	Fresh Fruits and Vegetables	500	$9.5	$15.0
5149	Groceries and Related Products, N.E.C.	500	$14.5	$25.0
5152	Cotton	500	$22.0	$35.0
5153	Grain	500	$14.5	$35.0
5154	Livestock	500	$14.5	$25.0
5159	Farm-Product Raw Materials, N.E.C.	500	$9.5	$35.0
5161	Chemicals and Allied Products	500	$22.0	$25.0
5171	Petroleum Bulk Stations and Terminals	500	$22.0	$25.0
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	500	$22.0	$35.0
5181	Beer and Ale	500	$9.5	$15.0
5182	Wines and Distilled Alcoholic Beverages	500	$22.0	$35.0
5191	Farm Supplies	500	$9.5	$15.0
5194	Tobacco and Tobacco Products	500	$14.5	$25.0
5198	Paints, Varnishes, and Supplies	500	$22.0	$25.0
5199	Nondurable Goods, N.E.C.	500	$9.5	$15.0
Division G—Retail Trade				
Major Group 52—Building Materials, Hardware, Garden Supply, and Mobile Home Dealers				
5211	Lumber and Other Building Materials Dealers	None	$2.0	$3.5
5231	Paint, Glass, and Wallpaper Stores	None	$2.0	$3.5
5251	Hardware Stores	None	$2.0	$3.5
5261	Retail Nurseries, Lawn and Garden Supply Stores	None	$2.0	$3.5
5271	Mobile Home Dealers	None	$3.5	$6.5
Major Group 53—General Merchandise Stores				
5311	Department Stores	None	$7.5	$13.5
5331	Variety Stores	None	$3.0	$6.5

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc	Loan	
5399	Miscellaneous General Merchandise Stores	None	$2.0	$3.5
	Major Group 54—Food Stores			
5411	Grocery Stores	None	$7.5	$13.5
5422	Freezer and Locker Meat Provisioners	None	$2.0	$3.5
5423	Meat and Fish (Seafood) Markets	None	$2.0	$3.5
5431	Fruit Stores and Vegetable Markets	None	$2.0	$3.5
5441	Candy, Nut, and Confectionery Stores	None	$2.0	$3.5
5451	Dairy Products Stores	None	$2.0	$3.5
5462	Retail Bakeries—Baking and Selling	None	$2.0	$3.5
5463	Retail Bakeries—Selling Only	None	$2.0	$3.5
5499	Miscellaneous Food Stores	None	$2.0	$3.5
	Major Group 55—Automotive Dealers and Gasoline Service Stations			
5511	Motor Vehicles Dealers (New and Used)	None	[10] 950	$11.5
5521	Motor Vehicle Dealers (Used Only)	None	$6.5	$11.5
5531	Auto and Home Supply Stores	None	$2.0	$3.5
5541	Gasoline Service Stations	None	$2.0	$3.5
5551	Boat Dealers	None	$2.0	$3.5
5561	Recreational and Utility Trailer Dealers	None	$2.0	$3.5
5571	Motorcycle Dealers	None	$2.0	$3.5
5599	Automotive Dealers, N.E.C [11]	None	$2.0	$3.5
	Major Group 56—Apparel and Accessory Stores			
5611	Men's and Boys' Clothing and Furnishings Stores	None	$2.5	$4.5
5621	Women's Ready-to-Wear Stores	None	$2.5	$4.5
5631	Women's Accessory and Specialty Stores	None	$2.0	$3.5
5641	Children's and Infants' Wear Stores	None	$2.0	$3.5
5651	Family Clothing Stores	None	$2.5	$4.5
5661	Shoe Stores	None	$2.5	$4.5
5681	Furriers and Fur Shops	None	$2.0	$3.5
5699	Miscellaneous Apparel and Accessory Stores	None	$2.0	$3.5
	Major Group 57—Furniture, Home Furnishings, and Equipment Stores			
5712	Furniture Stores	None	$2.0	$3.5
5713	Floor Covering Stores	None	$2.0	$3.5
5714	Drapery, Curtain, and Upholstery Stores	None	$2.0	$3.5
5719	Miscellaneous Home Furnishing Stores	None	$2.0	$3.5
5722	Household Appliance Stores	None	$2.5	$4.5
5732	Radio and Television Stores	None	$2.5	$4.5
5733	Music Stores	None	$2.0	$3.5
	Major Group 58—Eating and Drinking Places			
5812	Eating Places (Except Food Services)	None	$2.0	$3.5
5812	Food Services	$6.5	$2.0	$10.0
5813	Drinking Places (Alcoholic Beverages)	None	$2.0	$3.5
	Major Group 59—Miscellaneous Retail			
5912	Drug Stores and Proprietary Stores	None	$2.0	$3.5
5921	Liquor Stores	None	$2.0	$3.5
5931	Used Merchandise Stores	None	$2.0	$3.5
5941	Sporting Goods Stores and Bicycle Shops	None	$2.0	$3.5
5942	Book Stores	None	$2.0	$3.5
5943	Stationery Stores	None	$2.0	$3.5
5944	Jewelry Stores	None	$2.0	$3.5
5945	Hobby, Toy, and Game Shops	None	$2.0	$3.5
5946	Camera and Photographic Supply Stores	None	$2.0	$3.5
5947	Gift, Novelty, and Souvenir Shops	None	$2.0	$3.5
5948	Luggage and Leather Goods Stores	None	$2.0	$3.5
5949	Sewing, Needlework, and Piece Goods Stores	None	$2.0	$3.5
5961	Mail Order Houses	None	$7.5	$12.5
5962	Automatic Merchandising Machine Operator	None	$2.0	$3.5
5963	Direct Selling Establishments	None	$2.0	$3.5
5982	Fuel and Ice Dealers, Except Fuel Oil Dealers and Bottled Gas Dealers	None	$2.0	$3.5
5983	Fuel Oil Dealers	None	100	$3.5
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers	None	$2.0	$3.5
5992	Florists	None	$2.0	$3.5
5993	Cigar Stores and Stands	None	$2.0	$3.5
5994	News Dealers and Newsstands	None	$2.0	$3.5
5999	Miscellaneous Retail Stores, N.E.C	None	$2.0	$3.5
	Division H—Finance, Insurance, and Real Estate [12]			
	Major Group 63—Insurance			
6331	Fire, Marine, and Casualty Insurance	None	None	1,500

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
	Major Group 64—Insurance Agents, Brokers, and Service			
6411	Insurance Agents, Brokers, and Service	None	None	$9.5
	Major Group 65—Real Estate			
6515	Operators of Residential Mobile Home Sites	None	None	$3.5
	Leasing of Building Space to the Federal Government by Owners [18]	None	None	$1[illegible]
	Division I—Services			
	Major Group 70—Hotels, Rooming Houses, Camps, and Other Lodging Places			
7011	Hotels, Motels, and Tourist Courts	$2.0	$3.0	$3.5
7021	Rooming and Boarding Houses	$2.0	$3.0	$3.5
7032	Sporting and Recreational Camps	$2.0	$2.0	$3.5
7033	Trailering Parks and Camp Sites for Transients	$2.0	$1.5	$3.5
7041	Organization Hotels and Lodging Houses, on Membership Basis	$2.0	$2.0	$3.5
	Major Group 72—Personal Services			
7211	Power Laundries, Family and Commercial	$4.0	$3.0	$7.0
7212	Garment Pressing, and Agents for Laundries and Dry Cleaners	$2.0	$2.0	$3.5
7213	Linen Supply	$2.0	$2.0	$7.0
7214	Diaper Service	$4.0	$2.0	$7.0
7215	Coin-operated Laundries and Dry Cleaning	$2.0	$2.0	$3.5
7216	Dry Cleaning Plants, Except Rug Cleaning	$1.5	$2.0	$2.5
7217	Carpet and Upholstery Cleaning	$1.5	$2.0	$2.5
7218	Industrial Launderers	$4.0	$2.0	$7.0
7219	Laundry and Garment Services, N.E.C.	$2.0	$2.0	$3.5
7221	Photographic Studios, Portrait	$2.0	$2.0	$3.5
7231	Beauty Shops	$2.0	$2.0	$3.5
7241	Barber Shops	$2.0	$2.0	$3.5
7251	Shoe Repair Shops, Shoe Shine Parlors, and Hat Cleaning Shops	$2.0	$2.0	$3.5
7261	Funeral Service and Crematories	$2.0	$2.0	$3.5
7299	Miscellaneous	$2.0	$2.0	$3.5
	Major Group 73—Business Services			
7311	Advertising Agencies	$2.0	$2.0	$3.5
7312	Outdoor Advertising Services	$2.0	$2.0	$3.5
7313	Radio, Television, and Publishers' Advertising Representatives	$2.0	$2.0	$3.5
7319	Advertising, N.E.C.	$2.0	$2.0	$3.5
7321	Consumer Credit Reporting Agencies, Mercantile Reporting Agencies, and Adjustment and Collection Agencies.	$2.0	$2.0	$3.5
7331	Direct Mail Advertising Services	$2.0	$2.0	$3.5
7332	Blueprinting and Photocopying Services	$2.0	$2.0	$3.5
7333	Commercial Photographs, Art, and Graphics	$2.0	$2.0	$3.5
7339	Stenographic Services; and Reproduction Services, N.E.C	$2.0	$2.0	$3.5
7341	Window Cleaning	$2.0	$2.0	$3.5
7342	Disinfecting and Exterminating Services	$2.0	$2.0	$3.5
7349	Cleaning and Maintenance Services to Dwellings and Other Buildings, N.E.C	$4.5	$2.0	$8.0
7351	News Syndicates	$2.0	$2.0	$3.5
7361	Employment Agencies	$2.0	$2.0	$3.5
7362	Temporary Help Supply Services	$2.0	$2.0	$3.5
7369	Personnel Supply Services, N.E.C.[14] (includes base maintenance)	$7.5	$2.0	$13.5
7372	Computer Programming and Other Software Services	$4.0	$2.0	$7.0
7374	Data Processing Services	$4.0	$2.0	$7.0
7379	Computer Related Services, N.E.C	$7.0	$2.0	$12.5
7391	Research and Development Laboratories[16]	500	$2.0	500
7392	Management, Consulting, and Public Relations Services	$2.0	$2.0	$3.5
7393	Detective Agencies and Protective Services	$4.5	$2.0	$8.0
7394	Equipment Rental and Leasing Services	$2.0	$2.0	$3.5
7395	Photofinishing Laboratories	$2.0	$2.0	$3.5
7396	Trading Stamp Services	$2.0	$2.0	$3.5
7397	Commercial Testing Laboratories	$2.0	$2.0	$3.5
7399	Business Services, N.E.C	$2.0	$2.0	$3.5
	Major Group 75—Automotive Repair, Services, and Garages			
7512	Passenger Car Rental and Leasing, Without Drivers	$7.0	$2.0	$12.5
7513	Truck Rental and Leasing, Without Drivers	$7.0	$2.0	$12.5
7519	Utility Trailer and Recreational Vehicle Rental	$2.0	$2.0	$3.5
7523	Parking Lots	$2.0	$2.0	$3.5
7525	Parking Structures	$2.0	$2.0	$3.5
7531	Top and Body Repair Shops	$2.0	$2.0	$3.5
7534	Tire Retreading and Repair Shops	$4.0	$2.0	$7.0
7535	Paint Shops	$2.0	$2.0	$3.5
7538	General Automotive Repair Shops	$2.0	$2.0	$3.5
7539	Automotive Repair Shops, N.E.C	$2.0	$2.0	$3.5
7542	Car Washes	$2.0	$2.0	$3.5
7549	Automotive Services, Except Repair and Car Washes	$2.0	$2.0	$3.5
	Major Group 76—Miscellaneous Repair Services			
7622	Radio and Television Repair Shops	$2.0	$2.0	$3.5

COMPARISON OF PROPOSED STANDARDS WITH CURRENT STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars		
		Current standard		Proposed standard
		Proc.	Loan	
7623	Refrigeration and Air Conditioning Service and Repair Shops	$2.0	$2.0	$3.5
7629	Electrical and Electronic Repair Shops, N.E.C	$2.0	$2.0	$3.5
7631	Watch, Clock, and Jewelry Repair	$2.0	$2.0	$3.5
7641	Reupholstery and Furniture Repair	$2.0	$2.0	$3.5
7692	Welding Repair	$2.0	$2.0	$3.5
7694	Armature Rewinding Shops	$2.0	$2.0	$3.5
7699	Repair Shops and Related Services, N.E.C	$2.0	$2.0	$3.5
	Major Group 78—Motion Pictures			
7813	Motion Picture Production, Except for Television	$6.0	$6.0	$14.5
7814	Motion Picture and Tape Production for Television	$6.0	$6.0	$14.5
7819	Services Allied to Motion Picture Production	$6.0	$6.0	$14.5
7823	Motion Picture Film Exchanges	$6.0	$2.0	$14.5
7824	Film or Tape Distribution for Television	$6.0	$2.0	$14.5
7829	Services Allied to Motion Picture Distribution	$2.0	$2.0	$3.5
7832	Motion Picture Theaters, Except Drive-in	$2.0	$2.0	$3.5
7833	Drive-in Motion Picture Theaters	$2.0	$2.0	$3.5
	Major Group 79—Amusement and Recreation Services, Except Motion Pictures			
7911	Dance Halls, Studios, and Schools	$2.0	$2.0	$3.5
7922	Theatrical Producers (Except Motion Pictures), Bands, Orchestras, and Entertainers	$2.0	$2.0	$3.5
7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups	$2.0	$2.0	$3.5
7932	Billiard and Pool Establishments	$2.0	$2.0	$3.5
7933	Bowling Alleys	$2.0	$2.0	$3.5
7941	Professional Sports Clubs and Promoters	$2.0	$2.0	$3.5
7993	Coin-operated Amusement Devices	$2.0	$2.0	$3.5
7996	Amusement Parks	$2.0	$2.0	$3.5
7999	Amusement and Recreation Services, N.E.C	$2.0	$2.0	$3.5
	Major Group 80—Health Services			
8011	Offices of Physicians	$2.0	$2.0	$3.5
8021	Offices of Dentists	$2.0	$2.0	$3.5
8031	Offices of Osteopathic Physicians	$2.0	$2.0	$3.5
8041	Offices of Chiropractors	$2.0	$2.0	$3.5
8042	Offices of Optometrists	$2.0	$2.0	$3.5
8049	Offices of Health Practioners, N.E.C	$2.0	$2.0	$3.5
8051	Skilled Nursing Care Facilities	$2.0	$1.5	$3.5
8059	Nursing and Personal Care Facilities, N.E.C	$2.0	$1.5	$3.5
8062	General Medical and Surgical Hospitals	$2.0	[10] 150	$3.5
8063	Psychiatric Hospitals	$2.0	[10] 150	$3.5
8069	Specialty Hospitals, Except Psychiatric	$2.0	[10] 150	$3.5
8071	Medical Laboratories	$2.0	$1.5	$3.5
8072	Dental Laboratories	$2.0	$1.5	$3.5
8081	Outpatient Care Facilities	$2.0	$2.0	$3.5
8091	Health and Allied Services, N.E.C	$2.0	$2.0	$3.5
	Major Group 81—Legal Services			
8111	Legal Services	$2.0	$2.0	$3.5
	Major Group 82—Educational Services			
8299	Schools and Educational Services, N.E.C. Except Flight Training	$2.0	$2.0	$3.5
8299	Flight Training Services	$7.0	$2.0	$12.5
	Major Group 89—Miscellaneous Services			
8911	Engineering Services, Except for Military and Aerospace Equipment and Except for Military Weapons	$7.5	$3.5	$3.5
8911	Engineering Services for Military and Aerospace Equipment and for Military Weapons (Except Marine Engineering).	$7.5	$3.5	$13.5
8911	Marine Engineering and Naval Architecture	$9.0	$3.5	$11.0
8911	Architectural Services (Except Naval) and Surveying Services	$2.0	$2.0	$3.5
8931	Accounting and Auditing Services [11]	$2.0	$2.0	$5.0
8931	Bookkeeping Services	$2.0	$2.0	$3.5
8999	Services, N.E.C	$2.0	$2.0	$3.5

Footnotes

[1] Size standards preceded by a dollar sign ($) are in millions of dollars. All others are in number of employees unless specified otherwise.

[2] SIC Division D. Manufacturing: "Rebuilding on a factory basis or equivalent." For rebuilding machinery or equipment on a factory basis, use SIC code applicable for new manufactured product. The appropriate size standard is not limited to manufacturers. Ordinary repair services or preservation operations, however, are not considered rebuilding activities.

[3] SIC-2033. For purposes of Government procurement for food canning and preserving under SIC 2033, the standard of 500 employes shall be exclusive of agricultural labor as defined in section (k) of the Federal Unemployment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

[4] SIC-2911. For purposes of Government procurement, the firm may not have more than 1500 employees nor may it have more than 50,000 barrels per day. This capacity may be measured in terms of either crude oil or bona fide feedstocks or both, but the sum total of the various petroleum-based inputs into the process may not exceed 50,000 barrels. In addition to the direct owned capacity of the concern in question, counted capacity will include any leased facilities or any facilities made available to the concern under an arrangement such as (but not limited to) an exchange agreement or a throughput or other form of processing agreement (whereby another party processes the concern's own crude or feedstocks). Such an arrangement would have the same effect as though such facilities had been leased, and this would have to be included in the concern's own capacity. Any exchanges on a refined-product-for-refined-product basis are not permitted in the satisfaction of the contract. The total product to be delivered in the performance of the contract must be at least 50 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

[5] SIC-3011. For purposes of Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification Codes 30111 and 30112, provided that (1) the value of tires within Census Classification Codes 30111 and 30112 which it manufactured during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture, (2) the value of pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured worldwide during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during said period and (3) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

[6] SIC-40212. The Component "Garbage and Refuse, Collecting and Transporting, Without Disposal" shall have a size standard of $6.0 million. This is the same size standard as SIC-4953, *Refuse Systems*.

§121.3 General definitions

(a) *Affiliates*: Concerns, other than investment companies licensed, or state development companies qualifying under the Small Business Investment Act of 1958 and the regulations issued pursuant thereto, or investment companies registered under the Investment Company Act of 1940, are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other or (2) a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: Provided, however, That restraints imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure.

(i) *Nature of control.* Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example. A party owning 50 percent of the voting stock of a concern would have negative power to control such concern since he can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders. Affiliation exists when one or more parties have the power to control a concern while at the same time another party, or other parties, may be in control of the concern at the will of the party with the power to control.

(ii) *Meaning of "party or parties."* The term "party" or "parties" includes, but is not limited to, two or more persons with an identity of interest such as members of the same family or persons with common investments in more than one concern. In determining who controls or has the power to control a concern, persons with an identity of interest may be treated as though they were one person.

(iii) *Control through stock ownership.*—(A) A party is considered to control or have the power to control a concern if he controls or has the power to control 50 percent or more of its voting stock.

(B) A party is considered to control or have the power to control a concern even though he owns, controls, or has the power to control less than 50 percent of the concern's voting stock if the block of stock he owns, controls or has the power to control is large as compared with any other outstanding block of stock. If two or more parties each owns, controls or has the power to control less than 50 percent of the voting stock of a concern and such minority block is *(1)* equal or substantially equal in size, and *(2)* large as compared with any other block outstanding, there is a presumption that each such party controls or has the power to control such concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(C) If a concern's voting stock is distributed other than as described above, its management (officers and directors) is deemed to be in control of such concern.

Example. In a corporation where the officers and directors own various size blocks of stock totalling 40 percent of a concern's voting stock, but no officer or director has a block sufficient to give him control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control.

(iv) *Stock options, convertible debentures, and agreements to merge.* Stock options and convertible debentures exercisable at the time or within a relatively short time after a size determination and agreements to merge in the future are considered as having a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are treated as though the rights held thereunder had been exercised.

Example. If company "A" holds an option to purchase a controlling interest in company "B" and such option can be exercised at any time by company "A", the situation is treated as though company "A" had exercised its rights and had become owner of a controlling interest in company "B". Further, if company "A" has entered into an agreement to merge with company "B" in the future, the situation is treated as though the merger had taken place.

(v) *Voting trusts.* If the purpose of a voting trust, or similar agreement is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may qualify as a small business within the size regulations, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not valid within the appropriate jurisdiction. However, if a voting trust is entered into for a legitimate purpose other than that described above, and it is valid within the appropriate jurisdiction, it may be considered valid for the purpose of a size determination, provided such consideration is determined to be in the

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[7] Offshore Marine Services: The applicable size standard shall be $14 million for firms furnishing specific transportation services to concerns engaged in offshore oil and/or natural gas exploration, drilling production or marine research; such services encompass passenger and freight transportation, anchor handling, and related logistical services to and from the work site or at sea.

[8] SIC-4521: Includes passenger or cargo transportation requiring the use of one or more helicopters or fixed-wing aircraft. For other services requiring the use of one or more helicopters or fixed-wing aircraft, a size standard of $6.5 million shall apply. This does not include offshore marine transportation services as defined in footnote 7.

[9] SIC-4953: "Garbage and Refuse, Collecting and Transportation: Without Disposal," a component of SIC-4212, has the same size standard as SIC-4953.

[10] Units.

[11] SIC-5599: For retail firms whose principal line of business is the retail sale of aircraft, a $5 million size standard shall apply.

[12] Most industries in Division H—Finance, Insurance, and Real Estate—are excluded from SBA assistance.

[13] Leasing of building space to the Federal Government by owners—For the purpose of Government procurement, a size standard of $10 million in gross receipts is established for owners of building space that is leased to the Federal Government. The standard for these procurements shall apply to the owner of the property and not to those acting as an agent for the owner. There is no size standard concerning the agent.

[14] If one of the activities in base maintenance, as defined in SIC-7369, can be identified with a separate industry, and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard shall be that for the particular industry, and not the base maintenance size standard.

"Base maintenance" constitutes three or more separate activities. These activities may be either service or special trade construction related activities. As services, these activities must each be in a separate industry. These activities may include but are not limited to such separate maintenance activities as *Janitorial and Custodial Service, Protective Guard Service, Commissary Service, Fire Prevention Service,* the *Safety Engineering Service, Messenger Service,* and *Grounds Maintenance and Landscaping Service.*

If the contract involves the use of special trade contractors (plumbing, painting, plastering, carpeting, etc.), all such specialized special trade construction activities will be considered a single activity, which is *Base Housing Maintenance.* This is only one activity of base maintenance and two additional activities must be present for the contract to be considered base maintenance.

[15] SIC-7391: For research and development contracts requiring the delivery of a manufactured product, the size standard to use is that of the manufacturing industry in which the specific product is classified.

Research and development, as defined in the *SIC Manual,* means laboratory or other physical research and development on a contract or fee basis. Research and development for purposes of size determinations does not include the following: economic, educational, engineering, operations, systems or other nonphysical research, or computer programming, data processing, commercial and/or medical laboratory testing.

For purposes of the SBIR program only, a different definition has been established by law. See Part 121.7.

[16] Beds.

[17] This proposed rule supersedes the proposed rule of November 2, 1982 (47 FR 49664 which proposed a size standard revision of [illegible] employees for the accounting, auditing, and bookkeeping industry (SIC-8931).

best interest of the small business program.

(vi) *Control through common management.* A concern may be found as controlling or having the power to control another concern when one or more of the following circumstances are found to exist, and it is reasonable to conclude that under the circumstances, such concern is directing or influencing or has the power to direct or influence the operation of such other concern.

(A) *Interlocking management.* Officers, directors, employees, or principal stockholders of one concern serve as a working majority of the board of directors or officers of another concern.

(B) *Common facilities.* One concern shares common office space and/or employees and/or other facilities with another concern particularly where such concerns are in the same or related industry or field of operation, or where such concerns were formerly affiliated.

(C) *Newly organized concern.* Former officers, directors, principal stockholders, and/or key employees of one concern organize a new concern in the same or a related industry or field of operation, and serve as its officers, directors, principal stockholders, and/or key employees, and one concern is furnishing or will furnish the other concern with subcontracts, financial or technical assistance, and/or other facilities, whether for a fee or otherwise.

(vii) *Control through contractual relationships.*— (A) Definition of a joint venture for size determination purposes: A joint venture for size determination purpose is an association of persons and/or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single specific business venture for joint profit for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. A joint venture is viewed as a business entity in determining power to control its management.

(B) *Joint ventures—financial assistance.* For the purpose of financial assistance to a joint venture, the parties thereto are considered as controlling or having the power to control each other and are considered as being affiliated. For the purpose of financial assistance to a concern which has requested assistance for its own use, but which is incidentally a party to a joint venture, such concern is not considered as being affiliated with its joint venturer.

(C) *Joint venture—procurement and property sale assistance.* Concerns bidding on a particular procurement or property sale as joint venturers are considered as affiliated and controlling or having the power to control each other with regard to performance of the contract. Moreover, as ostensible subcontractor which [illegible] primary or vital [illegible] contract may have a controlling role such to be considered a joint venturer affiliated on the contract with the prime contractor. A joint venture affiliation finding is limited to particular contracts unless the SBA size determination finds general affiliation between the parties.

(D) Where a concern is not considered as being an affiliate of a concern with which it is participating in a joint venture, it is necessary, nevertheless, in computing annual receipts, etc., for the purpose of applying size standards to include such concern's share of the joint venture receipts (as distinguished from its share of the profits of such venture).

(E) *Franchise and license agreements.* If a concern operates or is to operate under a franchise (or a license) agreement, the following policy is applicable: In determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, the restraints imposed on a franchisee by its franchise agreement shall not be considered provided that the franchisee has the right to profit from its effort and the risk of loss or failure, commensurate with ownership. Even though a franchisee may not be controlled by the franchisor by virtue of the contractual relationship between them, the franchisee may be controlled by the franchisor or others through common ownership or common management, in which case they would be considered as affiliated.

(B) "Concern" means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States and which makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. "Concern" includes but is not limited to an individual, partnership, corporation joint venture, association, or cooperative. For the purpose of making affiliation findings (see subsection (a) of this section) any business entity whether organized for profit or not, and any foreign business entity, i.e., any entity located outside the United States, shall be included.

(c) A concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of marterials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

§ 121.4 Small business for financial programs.

(a) The provisions within this section apply to size eligibility for SBA financial assistance, which includes the following SBA programs: Financial and Guarantee Assistance, Small Business Investment Companies, Development Companies, Surety Bonding, Pollution Control, and Minority Small Business and Capital Ownership Development. Such size eligibility is determined with reference to the size standard for the primary industry of the concern (including any affiliates) under the SIC code size standards in the table contained in § 121.2. The size standards are generally in terms of four-digit industries set forth in the Standard Industrial Classification Manual. In addition to meeting the size standards of this regulation, a small business concern must be not dominant in its field of operation. (See § 121.3(c).) If a concern is engaged in a number of industries (or including its affiliates is engaged in several industries), the size standard shall be that of the concern's (or concerns') primary industry. The primary industry determination considers the distribution among industries during the most recent fiscal year and 12 month period of receipts and employees of the concern (or of an entire affiliated group if the group in its entirety has a different primary industry). The determination may also consider other factors (e.g., patents, contract awards, assets).

(b) After the appropriate size standard is ascertained, the eligibility of the concern under that size standard must be considerd. In determining whether a concern is eligible under its applicable primary industry size standard, employees or receipts (or other size measurement under subsection (e) of this section, e.g., net worth) of the concern and its affiliates must be aggregated. (Section 121.3(a) sets forth the SBA affiliation definition.)

(c) A concern which applies for an SBA loan or guarantee to refinance an existing SBA loan or guarantee but which, since the date of the original financing, has by natural growth (as distinguished from, e. g., merger) grown to a size which exceeds the applicable size standard, is considered as small for the purpose of refinancing if SBA administratively determines that refinancing is necessary to protect the Government's financial interest.

(d) The applicable size standards for the purpose of all SBA financial and guarantee programs excluding the Section 8(a) Program and the Surety Bond Guarantee Assistance Program, are increased by 25 percent whenever the concern agrees to use the assistance within a "labor surplus area," or "redevelopment area." "Redevelopment area" means a "redevelopment area" in accordance with the Public Works Economic Development Act of 1965 (Pub. L. 89–136, 79 Stat. 570, 42 U.S.C. 3211). "Labor surplus areas" are defined monthly in the Department of Labor publication "Area Trends."

(3) A small business concern for the purpose of receiving financial or other assistance from small business investment companies or development companies, or pollution control guarantee assistance, is one which: (1) Together with its affiliates, does not have net worth in excess of $6 million, and does not have an average net income after Federal income taxes for the preceding 2 years in excess of $2 million (average net income to be computed without benefit of any caryover loss); or (2) a concern is also eligible for these programs if it otherwise qualifies under this section as a small business concern for financial assistance.

(f) The concern's size status may be determined at the SBA District Office, the SBA Regional Office, or by any other SBA office or financial institution appropriately designated. The determination may be made at the time of application for assistance. The concern's size eligibility is determined as of the time of its application or self-certification as small by the concern and the time of approval of the financing. Except for firms participating in the section 8(a) program, subsequent changes in size will not affect a firm's size status.

(g) For purposes of the Minority Small Business and Capital Ownership Development Assistance program (the program authorized by section 8(a) of the Small Business Act).

(1) In order to be eligible to participate in the section 8(a) program, an applicant concern must qualify as a small business concern as defined for purposes of Government procurement in § 121.2 of the SBA Rules and Regulations. The particular size standard to be applied will be based on the primary industry classification of the applicant concern.

(2) In order to continue to participate in the section 8(a) program once a concern is admitted to the program, the concern must certify to SBA that it is a small business for the purpose of performing each individual contract which it is awarded. SBA, in turn, will verify such certifications.

(h) For purposes of surety bond guarantee assistance

(1) Any construction concern (general of special trade) is small if its annual receipts average for its preceding three fiscal years does not exceed $5 million.

(2) Any concern performing a contract for services (including but not limited to services set forth in Division I, Services, of the Standard Industrial classification Manual) is small it its annual receipts average for its preceding three fiscal years does not exceed $5 million.

(3) For other surety bond guarantee assistance, the provisions of § 121.4 (a) and (b) are applicable in determining eligibility as a small business concern.

§ 121.5 Small business for government procurement.

(a) A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is not dominant in the field of operation in which it is bidding on Government contracts and can further qualify under the criteria set forth in this section. The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry, is not considered an SBA size determination.

(b)(1) The procurement is classified for size standard purposes in the most appropriate SIC code industry category (§ 121.2); giving consideration to the industry descriptions in the regulation and the SIC Manual, the product or service description in the solicitation and attachments thereto, the relative value of items in the procurement and the principal nature of the procurement. In borderline cases, consideration may be given to previous Government procurement classifications of the same or similar products or services, additional information on the industries and on the product or service being procured, and to evaluations on which industry classification would best serve the purposes of the Small Business Act. A concern which is bidding on a contract for a procurement in an SIC industry under § 121.2 must meet the size standard designated for that industry. The size standard and SIC industry designation are set forth in the solicitation.

(2) Any concern which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is deemed to be a small business when:

(i) Its average annual receipts (including affiliates) for its three most recently completed fiscal years does not exceed the size standard for the appropriate wholesale industry identified with the product being procured as defined in § 121.2, and

(ii) In the case of Government procurement reserved (i.e., set aside) for small businesses, such nonmanufacturer must furnish, in the performance of the contract, the product of a small business manufacturer or producer, which end product must be manufactured or produced in the United States. The term "nonmanufacturer" includes a concern which can manufacture or produce the product referred to in the specific procurement but does not do so in connection with that procurement. For size determination purposes there can be only one manufacturer of the end item being procured. The manufacturer of the end item being procured is the concern which, with its own forces, transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into such end item. Whether a bidder on a particular procurement is the manufacturer or a nonmanufacturer for the purpose of a size determination need not be consistent with whether such concern is or is not a manufacturer for the purpose of the Walsh-Healey Act.

(iii) A concern which purchases items and packages them into a kit is considered to be a nonmanufacturer small business and can qualify as such for a given procurement if it meets the size qualifications of a small nonmanufacturer for the procurement and if more than 50 percent of the total value of the kit and its contents is accounted for by items manufactured by small business.

(iv) If the procurement is subject to, and is actually processed under, "small purchase procedures" as defined in the Defense Acquisition Regulation (DAR), Federal Procurement Regulation (FPR), and the National Aeronautics and Space Administration Procurement Regulation (NASAPR), as applicable, such nonmanufacturer may furnish any domestically produced or manufactured product.

(v) For the purpose of receiving a Certificate of Competency on an unrestricted procurement, a small business nonmanufacturer may furnish any domestically produced or manufactured product. The applicable size standard shall be that of the wholesale industry of the item being procured.

(c) If a procurement calls for two or more items with different size standards and the bidder can bid on any items, the bidder must meet the size standard for each item for which it submits a bid. If the procurement calls for more than one item and a bidder is required to bid on all items, the bidder can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value.

(d) The determination of the appropriate classification of a product or service shall be made by the contracting officer of the procuring agency or his authorized representative. Both the SIC industry classification and the applicable size standard (number of emloyees, average annual receipts, etc.), shall be set forth in the solicitation and such determination of the contracting officer shall be final unless appealed to SBA in the manner provided in § 121.11; provided, however, that an unclear or incomplete classification action by the contracting officer may be supplied by the SBA if necessary in connection with a size determination or size appeal.

(e) In the submission of a bid or proposal on a Government procurement, a concern which meets the designated size standard and which either has not been determined by SBA to be ineligible under the same or a lower size standard, or has been determined to be ineligible but subsequently has been recertified by SBA, may represent that it is a small business concern within the size standard designated for the procurement. In the absence of a written protest by other bidders or other credible information which would cause a contracting officer to question the veracity of the self-certification, a contracting officer shall accept the self-certification at face value for the particular procurement involved. The contracting officer shall refer written protests to SBA; and, if he has cause, may refer his own protest to SBA for a size determination. The protest should provide specific factual reasons enabling the protested concern to respond to the particular allegations that it is not a small business concern within the size standard applicable to the procurement.

(f) If a concern has been determined by SBA to be ineligible as a small business under a particular size standard, and it has already self-certified as a small business on a pending procurement subject to the same or lower number of employees or annual receipts size standard (whichever is applicable), it shall immediately notify the contracting officer of such adverse size determination.

(g) For subcontracting purposes pursuant to Section 8(d) of the Small Business Act, a concern is small

(1) in connection with subcontracts of $10,000 or less which relate to Government procurements if, including its affiliates, its number of employees does not exceed 500 persons; and

(2) In connection with subcontracts exceeding $10,000 which relate to Government procurements if its number of employees or average annual receipts, (including its affiliates), does not exceed the size standard under § 121.2 for the product or service it is providing on the subcontract. Concerns may self-certify their status as a small subcontractor for the procurement.

(3) The contracting officer or other affected party in connection with small business subcontracting requirements, pursuant to section 8(d) of the Small Business Act, may protest a written representation of small business status, or the refusal to accept such written representation, of a concern offering as a subcontractor on a particular procurement. The protest and related information shall be referred to the SBA Regional Office in which the concern has its principal office for a size determination or other appropriate SBA action.

§ 121.8 Small business for sales or lease of Government property.

In the submission of a bid or proposal for the purchase or lease of Government-owned property, a small business concern is one which meets the criteria provided in this section. The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry is not considered an SBA size determination. In the absence of a written protest by other bidders or other credible information which would cause a contracting officer to question the veracity of a concern's self-certification as a small business, a contracting officer shall accept the self-certification at face value. The contracting officer shall refer written protests to SBA; and, if he has cause, may refer his own protest to SBA for a size determination. The protest should provide specific factual reasons enabling the protested concern to respond to the particular allegations that it is not a small business concern for the sale or lease on which protested. If a concern has been determined by SBA to be ineligible under the applicable size standard and has not been recertified, it shall not self-certify under that size standard until it has been recertified by SBA; and shall immediately notify the contracting officer on any pending sales or leases where it had self-certified under the same size standard.

(a) *Sales of Government-owned property other than timber.* A small business concern for the purpose of the sale of Government-owned property other than timber is a concern, including its affiliates, which is independently owned and operated, is not dominant in its field of operation, and can further qualify under the following criteria.

(1) Manufacturers. Any concern which is primarily engaged in manufacturing is small if its number of employees does not exceed 500 persons: *Provided, however,* That a concern primarily engaged in SIC Industry 2911, Petroleum Refining, is small if its number of employees does not exceed 1,500 persons and it does not have more than 50,000 barrels per day crude oil or bona fide feed stock capacity [8] from owned and/or leased facilities, or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except on a refined-product-for-refined-product basis) or a throughput or other from of processing agreement, with the same effect as though such facilities had been leased.

(2) Other than manufacturers. Any concern which is primarily not a manufacturer (except as specified in paragraph (a)(3) of this section) is small if its average annual receipts for its preceding 3 fiscal years do not exceed $2 million.

(3) Stockpile purchasers. Any concern primarily engaged in the purchase of materials which are not domestic products is small if its annual receipts for its preceding 3 fiscal years do not exceed $42 million.

(b) *Sales of Government-owned timber.* (1) In connection with sale of Government-owned timber, a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;[9]

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[8] See § 121.2 (footnotes) for definition of crude oil capacity and bona fide feed stock capacity.

[9] "Forest Products Industry" means logging, wood preserving, and the manufacture of lumber and wood related products such as veneer, plywood, hardbored, particle board, or wood pulp, and of products of which lumber or wood related products are the principal raw material.

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 500 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (b)(1) of this section, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of this paragraph more than 30 percent (50 percent in Alaska) of such timber. The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (b)(1) of this section, and

(ii) It agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under paragraph (b)(1) of this section as a small business. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the names, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and the size status of the concern manufacturing the sawlogs into lumber or timbers.

(c) *Special salvage timber sales.* (1) In connection with sale of Government-owned special salvage timber, designated by the USFS as SSTS, a small business is a concern that:

(i) Is primarily engaged in the logging or forests products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 25 persons during any pay period for the last 12 months.

(2) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small business, restricting the disposal of timber and, when the special salvage timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (c)(1) of this section, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of paragraph (b)(1) of this section more than 30 percent of such timber (50 percent in Alaska). The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(iii) It agrees that as an eligible logger, it will accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees. Significant logging of timber means using its own employees to accomplish two or more of the following element: (A) felling and bucking, (B) yarding, (C) loading. It further agrees that such SSTS sale logging elements not accomplished with its own employees will be subcontracted only to concerns eligible for preferential award of an SSTS sale.

(3) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, restricting the disposal of timber, and when the special salvage timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (c)(1) of this section, and

(ii) It agrees that it will manufacture a significant portion of the logs with its own employees. Manufacture of logs means, at a minimum, a breakdown of the log into the rough cut of the finished product. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the name, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.

(iii) It further agrees that it will accomplish the logging of SSTS timber, exclusive of hauling, with its own employees, or will subcontract such logging only to concerns eligible for preferential award of an SSTS sale.

(4) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, the special salvage timber may be disposed of without restriction when there are less than two qualified mills in the market area.

(d) Any firm bidding to lease Government land for purposes of coal mining is classified as small if:

(1) It is independently owned and operated;

(2) It is not dominant in its field of operation;

(3) Together with its affiliates, its number of employees does not exceed 250 persons;

(4) It maintains management and control of the actual mining operation at the tract; and

(5) Any transfer of the lease from the holder of the original set-aside must be to another small business within the meaning of this paragrpah.

(e) In the submission of a bid or proposal for a Government lease of uranium prospecting or mining rights, a concern whose number of employees does not exceed 100 persons may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certification at face value for the particular lease involved.

§ 121.7 Small Business Innovation Research Programs.

(a) A small business concern for purposes of award of any funding agreement under a solicitation pursuant to the Small Business Innovation Development Act of 1982 (Pub. L. 97–291, 15 U.S.C. 638(e)-(k)) is one which, including its affiliates, has a number of employees not exceeding 500. The term "affiliates" is defined in § 121.3(a) of this title. The term "number of employees" is defined in § 121.2(h) of this title.

(b) The Small business Innovation Development Act of 1982 defines "research" or "research and development" as any

> * * * activity which is (A) a systematic, intensive study directed toward greater knowledge or understanding of the subject studies; (B) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or (C) a systemactic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement or prototypes and new processes to meet specific requirements (15 U.S.C. 638, as amended by 96 Stat. 218, Sec. 4(e)(5))

(c) SBA has issued a policy directive (Policy Directive No. 65–01; 47 FR 52[illegible] November 24, 19[illegible] describing criteria for solicitations and award of funding agreements pursuant to the Small Business Innovation Research (SBIR) Program. Under the SBIR program, the term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental developmental, or research work funded in whole or in part by the Federal Government.

§ 121.8 Size Determinations.

(a) Original size determinations shall be made by the regional director, or his delegate, serving the region in which the principal office of the concern (not including its affiliates) whose size is in question is located, except that for lease guarantee reinsurance purposes such determinations shall be made by the Associate Administrator for Finance and Investment. The regional director or his delegate, or the Associate Administrator for Finance and Investment promptly shall notify in writing, by certified mail, return receipt requested, the concern in question and other interested persons of his decision. Such determination shall become effective immediately and shall remain in full force and effect unless and until reversed by the Small Business Administration Size Appeals Board. For the purpose of Government procurements or sales, a size determination shall be made only in the event of a protest pursuant to these regulations, a request for recertification, a request for a Certificate of Competency, or if the Associate Administrator for Procurement Assistance or his delegate or a regional director or his delegate determines it necessary to question the size status of a concern for the purpose of any Small Business contracting program or Procurement Source Program, or for property sales purposes or for any other purpose relating to Government procurement or sales. For the purpose of SBA financial assistance, a formal size determination under this provision shall be made by the Regional Office only (1) where the regular review of the loan file or other substantial evidence indicates the need therefor and a request is made by the appropriate SBA financial assistance official, or (2) where an initial determination is made by the SBA financial assistance officer that the concern is other than small and a request is made by the loan applicant. Initial nonformal financial assistance size determinations may not be appealed to the SBA Size Appeals Board.

(b) Once properly instituted (i.e., by filing of a protest or by an official request for a determination) formal size determinations may be completed, even if the particular application, bid, or offer is subsequently withdrawn, or the Government procurement or sale is cancelled or awarded.

(c) The size determination will be based primarily on facts and allegations supplied by the parties to the SBA. If deemed necessary or appropriate SBA may utilize other information in its files and may make inquiries including requests to the parties or other persons for additional specific information. The burden of establishing its small business size by submitting full information to SBA shall be upon the concern whose size status is under consideration. Specific signed factual evidence will be weighed more heavily by SBA than general unsupported allegations or opinions. In the case of refusal or failure to furnish requested information within a required time period, SBA may assume that disclosure would be contrary to the interests of the party failing to make disclosure. The SBA formal size determination shall be based upon the record, including reasonable inferences therefrom, and shall state in writing the basis for its findings and conclusions.

(d) If SBA has made a formal size determination that a particular concern is not small, the concern will not be deemed eligible within such applicable size standard for any assistance under the Small Business Act or the Small Business Investment Act of 1958, unless it is thereafter recertified by SBA as a small business. After such an adverse size determination, the concern shall not self-certify itself as small within the same or a lower employee or annual receipts size standard (whichever is applicable) unless it is recertified. Applications for recertification shall be made to the SBA Regional Office which made the original size determination. Applications for recertification shall be accompanied by a current completed SBA Form 355 and by any other pertinent information necessary to show a significant change in its ownership, management, contractual relations, or in other factors bearing on its status as a small concern. If good cause is shown in extraordinary cases, as determined by the Chairperson of the Size Appeals Boards, the original decision on the application for recertification may be made by the Size Appeals Board.

(1) Recertification shall not be required nor will the prohibition against future self-certification apply if the adverse SBA size determination is based solely on a finding of affiliation due to a joint venture (e.g., ostensible subcontracting) limited to a particular Government procurement or property sale, or is based on an ineligible nonmanufacturer size determination on a particular Government procurement.

(2) If SBA makes a size determination denying an application for recertification, such adverse size determination may be appealed to the Size Appeals Board. Recertifications have future effect only and, except as to timber sales size determinations, are not appealable to the Board by other than the concern in question (however, the concerns' later self-certification on subsequent set-aside procurements or property sales may be protested in the usual manner).

(e) Size determinations for compliance purposes. Upon request by other Government agencies, SBA size determinations under Part 121 may be made to assist in the enforcment or administration of regulations or contracts, as well as in connection with award of contracts or granting of assistance. SBA size determinations are findings on the size status of a concern (including its affiliates) as of a definite time and regarding a specific applicable SBA size standard, and do not rule on compliance, contractual or administrative matters which are handled by the other agencies.

§ 121.9 Protest of small business status.

(a) *How to protest.* Any bidder or offeror or other interested party may challenge the small business status of any other bidder or offeror on a particular Government procurement or sale. Such challenge shall be made by delivering a protest to the contracting officer responsible for the particular procurement or sale involved. In order to apply to the procurement or sale in question, such protest must be filed prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after bid or proposal opening, except that in the case of negotiated procurements, a protest may be filed within 5 days exclusive of Saturdays, Sundays, and legal holidays after receipt from the contracting officer of notification of the identity of the offeror being protested. Such filing must be delivered to the contracting officer by hand, telegram, or mail within the 5-day period allotted: *Provided, however,* That a protest shall be considered timely if made by telephone to the contracting officer within the 5-day period allotted and the contracting officer thereafter receives a confirming letter (1) within such 5-day period or (2) postmarked no later than 1 day after the date of such telephone protest. Any contracting officer who receives a protest shall promptly forward such protest to the SBA regional office serving the geographical area in which the principal office of the protested concern, not including its affiliates, is located. A contracting officer may at any time after bid opening question the small business status of any bidder or offeror for the purpose of a particular procurement or sale by filing a protest with the SBA regional office serving the area in which the principal office of the protested concern, not including its affiliates, is located. A protest by a contracting officer shall be timely for the purpose of the procurement or sale in question whether filed before or after award. A protest received after the time limits set forth herein shall not apply to the procurement or sale in question. A concern determined other than small business as a result of such late protest, however, shall be precluded from self-certification in any other procurement or sale in which the size standard is not higher than the standard in the procurement or sale in question. A protest must adequately set forth specific alleged grounds for the protest. A protest merely alleging that the protested concern is not small or is affiliated with unspecified other concerns will not be deemed to adequately specify grounds for the protest. Evidence supporting the protest may be submitted therewith. Protests which do not set forth specific alleged grounds for the protest will be dismissed.

(b) *Notification of protest.* Upon receipt of such protest, the SBA regional director or his delegatee shall immediately notify the contracting officer and the protestant of the date such protest has been received and that the size of the concern being protested is being considered by SBA. The regional director or his delegatee shall also advise the protested bidder or offeror of the receipt of the protest and shall forward to the protested bidder or offeror a copy of the protest and a blank SBA Form 355, Application for Small Business Size Determination, by certified mail, return receipt requested. Such bidder must, within 3 working days after receipt of the copy of the protest and SBA Form 355, file the completed form as directed by SBA, must attach thereto a statement in answer to the allegations of the letter of protest, together with evidence to support such position. If such bidder or offeror does not submit the completed SBA Form 355 within the billing period provided above, or within any additional period of time granted by SBA for cause, SBA will rule the protested concern is other than a small business. If the bidder or offeror does not submit the completed SBA Form 355 within the period provided above, or within any additional period of time provided by SBA upon application for good cause shown, SBA may assume that the disclosure of the Form or any missing part thereof would be contrary to the interests of the party failing to make such disclosure.

(c) *Notification of determination.* After receipt of a protest and responses thereto, SBA shall determine the small business status of the protested bidder or offeror and, by certified mail, return receipt requested, notify the contracting officer, the protestant, and the protested bidder or offeror of its decision within 10 working days, if possible.

(d) If SBA has determined that a concern is ineligible as a small business for the purpose of a particular procurement, it cannot thereafter become eligible for the purpose of such procurement by taking affirmative acts to constitute itself a small business.

(e) *Multiple Award Schedules.* Protests will be deemed timely if received by SBA at any time prior to the expiration of the contract period (including renewals) on a multiple award schedule procurement set aside for small business.

§ 121.10 Size standard responsibilities.

(a) Office of Size Standards Staff, Office of the Administrator, shall:

(1) Develop and recommend small business size standards to the Administrator of SBA for promulgation.

(2) Consider and take appropriate action on written requests to change existing size standards or establish new size standards.

(3) Conduct industry hearings pertaining to size standards.

(4) Perform other related functions (e.g., industry studies) as may be appropriate to administer the SBA size standards program.

(b) Requests to change the existing, or establish new, size standards should be addressed to the Director, Size Standards Staff, Office of the Administrator, 1441 L Street, N.W., Washington, D.C. 20416, and should include information on the economic conditions and structure of the entire national industry, as well as specific reasons and justifications for the change or new size standard. The methodology described in the section on "Purpose and Method of Establishing Size Standards" (§ 121.1) provides basic criteria on the kinds of information desirable to make an appropriate request. If no size standard of an industry has been established in this part, then SBA, upon request, may issue an *ad hoc* or temporary size standard for the industry in question.

(c) The Office of General Counsel, in conjunction with other interested SBA offices, shall develop and recommend to the Administrator regulations and procedures to assist in implementing the size standards.

(d) The Size Appeals Board shall hear and resolve appeals of size determinations concerning the small business size status of individual firms. The Board also hears and resolves appeals concerning the appropriate size standard for particular small business set-aside procurements, and may issue interpretations of the size regulations.

§ 121.11 Appeals.

(a) *Organization.* The Size Appeals Board shall review appeals from all size determinations and product classifications made pursuant to these regulations and shall make final decisions as to whether such determinations or classifications should be affirmed, reversed or modified. The Size Appeals Board only has jurisdiction to consider appeals from formal determinations as to a concern's small business size status and appeals from product or service classification determinations made by contracting officers for the purpose of Government procurements. It has no jurisdiction to consider an appeal from an informal opinion or advice concerning a company's small business size status, an opinion as to a company's future small business size status based on proposed but unexecuted changes in its organization, management or contractual relations, or an appeal based on allegation that the small buisiness size standard established by SBA for a particular industry or field of operation is improper for the purpose intended. Size Appeals Board proceedings are essentially factfinding and nonadversary in nature. The Size Appeals Board shall conduct such proceedings as it determines appropriate to enable it to discharge its duties. The Size Appeals Board shall consist of five members, to wit: The Deputy Administrator (Chairperson); the Associate Administrator for Procurement Assistance (Vice Chairperson); the Associate Administrator for Finance and Investment; the Associate Administrator for Minority Small Business and Capital Ownership Development; and the Director of the Size Standards Staff. In the event the Vice Chairperson acts as Chairperson in the stead of the Deputy Administrator, the Director of the Office of Procurement and Technical Assistance shall become a member of the Board. Each member shall designate one alternate in writing to act in his stead, and in the event of an emergency, the Chairperson may designate a temporary additional alternate for any member. Each member or his alternate shall have one vote except that the Chairperson or the Vice Chairperson acting in his stead shall vote only in the event of a tie.

(b) *Method of appeal.*—(1) Who may appeal: An appeal may be filed by:

(i) Any concern or other interested party which has protested the small business status of another concern and whose protest has been denied by a regional director or his delegatee;

(ii) Any concern or other interested party which has been adversely affected by a decision of a regional director or his delegatee or by the Associate Administrator for Finance and Investment;

(iii) Any concern or other interested party which has been adversely affected by a decision of a contracting officer regarding product classification; and

(iv) The Small Business Administration Associate Administrator for the Small Business Administration program involved.

(2) *Where to appeal.* Written notices of appeal shall be addressed to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416.

(3) *Time for appeal.*—(i) An appeal from a size determination or product classification by a regional director, or his delegatee, may be taken at any time, except that because of the urgency of pending procurements, appeals concerning the small business status of a bidder or offeror in a pending procurement must be within 5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a decision by a regional director or his delegatee. Unless written notice of such appeal is received by the Size Appeals Board before the close of business on the 5th working day, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned. Appeals from a size determination in a pending Government property sale must be within 5 days, exclusive of Saturdays, Sundays, and holidays, after receipt of a decision by a regional director or his delegatee. Unless written notice of such appeal is received by the Board before the close of business on the 5th working day, the appellant will be deemed to have waived its rights of appeal insofar as the pending sale is concerned. An appeal received after the time limits set forth herein shall be acted on, but such determination shall not apply to the procurement or sale in question.

(ii) An appeal from a contracting officer's designation of the Standard Industrial Classification industry into which the product or service being procured is classified, and/or the Small Business Administration size standard applicable thereto may be taken:

(A) Not less than 10 days, exclusive of Saturdays, Sundays, and legal holidays, before bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is more than 30 days after the issuance of the invitation for bids or request for proposals or quotations, or

(B) Not less than 5 days, exclusive of Saturdays, Sundays, and legal holidays, before the bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is 30 or less days after the issuance of the invitation for bids or request for proposals or quotations, and

(iii) The timeliness of an appeal shall be determined by the time of receipt of the appeal by the Size Appeals Board: *Provided, however,* That an appeal received after such time limit has expired shall be deemed to be timely and shall be considered if, in the case of mailed appeals, such appeal is sent by registered or certified mail and the postmark thereon indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant, or in the case of telegraphed appeals, the telegram date and time line indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant.

(4) *Appeal.* No particular form is prescribed for the appeal. However, the appellant shall submit to the Board an original and one legible copy of such appeal. A copy of the appeal shall be simultaneously sent by the appellant to the contracting officer, if applicable, and also a simultaneous copy to the appropriate Regional Office. The appeal should include the following information:

(i) Name and address of concern on which the size determination was made;

(ii) The character of the determination from which appeal is taken and its date;

(iii) If applicable, the IFB or contract number and date, and the name, address, and telephone number of the contracting officer;

(iv) A full and specific statement of the reasons why the decision of a regional director, or his delegatee, the contracting officer or the Associate Administrator for Finance and Investment is alleged to be erroneous;

(v) Arguments in support of such allegations; and

(vi) Action sought by the appellant.

Appeals must set forth specifically the alleged ground of material error in the original classification or size determination. The Board generally will not review issues of evidence not previously presented to the SBA office making the original size determination unless such review is determined to be necessary to prevent manifest injury to a party not due to any fault or omission of such party.

(c) *Notice to interested parties.* The Size Appeals Board shall promptly acknowledge receipt of the Notice of Appeal and shall send a copy of such Notice of Appeal to the appropriate regional director or his delegatee and to the contracting officer (if a pending procurement is involved). If the appellant is not the concern whose size status is in question, the Board shall also send a copy of the notice to such concern. The Board shall notify all known interested parties that the appeal has been filed. The Board in its discretion may also provide any of such interested parties with copies of appellant's Notice of Appeal, or parts thereof, when the Board determines that this would be in the interest of fairness or would assist in the performance of its functions.

(d) *Statement of interested parties.* After an appeal has been filed, any other interested parties may file with the Board a signed statement, together with one legible copy thereof, as to why the appeal should or should not be denied. Such statements shall be mailed or delivered to the Size Appeals Board, Small Business Administration, Washington, D.C. 20416, within 5 calendar days of the receipt of appropriate notification of appeal or other action in the proceeding. If the appellant is the concern whose size status is in question, the Board will provide copies of such statements submitted in connection with the appeal or a reconsideration thereof to such appellant.

(e) *Consideration by the Size Appeals Board.*—(1) The Size Appeals Board shall consider the appeal on the written submission of the parties. The Board may also, in its discretion, conduct an oral inquiry. After consideration of all relevant information, the Board shall promptly render a decision which shall state the reason for such decision. Time limitations on all submissions will be strictly applied. Late submissions and submissions additional to those provided for in the regulation or requested by SBA may be disregarded by the Board to avoid delay in disposition of the case. If deemed necessary the Board may request additional specific information from the parties or other persons. In the case of refusal or failure to promptly furnish such information, the Board may assume that disclosure would be contrary to the interests of the party failing to make such disclosure.

(2) Procedures in oral inquiries. In considering size appeals, and in reconsidering size appeals decisions, the Size Appeals Board may hold an oral inquiry to assist it in arriving at facts necessary in deciding the appeal. The following rules shall govern such oral inquiries:

(i) Oral inquiries may be held by the Size Appeals Board upon the request of any party to a size appeal or by the Board on its own motion. The Board will, in its discretion, determine whether an oral inquiry will be of assistance in its determination of a size appeal. The Board shall inform the party making a request for oral inquiry whether its request is granted. If the Board grants the request for an oral inquiry, it will so notify all other interested parties.

(ii) Oral inquiries held by the Board are investigative in nature and not adversary. Such inquiries shall be conducted informally in a manner which will facilitate the Board's factfinding function and insure fairness to all participants.

(iii) Whenever the Board permits the appearance of two or more parties before it in an oral inquiry, cross-examination shall not be permitted between or among such parties; however, any party appearing in such oral inquiry may suggest questions for the Board to direct to other parties which may assist the Board in its determination of relevant facts.

(f) *Decision of the Size Appeals Board.* The decision of the Size Appeals Board shall be predicated upon the entire record, and it shall state in writing the basis for its findings and conclusions. The Chairman shall promptly notify, in writing, the appellant and the other interested parties of the Board's decision together with the reasons therefor.

(g) *Reconsiderations.*—(1) Following a decision by the Size Appeals Board that a firm and its affiliates are not small business within an applicable size standard, any such firm or affiliate may petition the Size Appeals Board for reconsideration upon presentation of appropriate justification therefor. Such petition must be received by the Size Appeals Board within 10 business days following receipt by the firm of the formal written Findings and Decision of the Board. The Findings and Decision of the Board will be prepared and forwarded to the parties within a short period of time following the Board's determination. The petition for reconsideration may be in any form, with an original and one copy. The Board will notify interested parties that a petition for reconsideration has been received.

(2) The Chairperson shall consider the petition for reconsideration upon the statement and other evidence presented by the petitioners and any other evidence the Chairperson, in his discretion, deems necessary.

(3) Grounds for reconsideration. Grounds for reconsideration shall be:

(i) A material error of fact in the original decision; or

(ii) Relevant facts not previously considered by the Board and not previously available to the petitioner;

(iii) When a request for reconsideration is made, the petitioning firm must demonstrate that the grounds for reconsideration involve facts which were not previously presented to the Board through no fault or omission of such party.

(4) If the Chairperson denies the request for reconsideration, he shall notify all parties. If the request for reconsideration is granted by the Chairperson, he shall so notify all interested parties, setting forth a reasonable time within which the interested parties may, if appropriate, submit additional information. The Board may, in its discretion, provide interested parties with copies of appropriate information submitted by other parties where it determines that this is necessary in the interest of fairness or to better assist the Board in performing its factfinding functions.

(5) Following its reconsideration of the matter, the Board will promptly render a decision pursuant to paragraph (f) of this section. The decision of the Board shall constitute the final administrative remedy afforded by this Agency.

(h) The following may be summarily dismissed by the Chairperson:

(1) Untimely appeals and untimely petitions for reconsideration;

(2) Appeals not setting forth specifically the alleged grounds of

material error in the initial size or classification determination;

(3) Appeals not within the Board's jurisdiction;

(3) Appeals where the allegation of error has no apparent ground of support in either the record before the Board or under the Regulations of this Part 121;

(5) Appeals on product or service classification/size standard determinations where the contract in question has already been awarded;

(6) Petitions for reconsideration which do not specify material errors of fact in the factual findings and conclusions of the Board's decision or do not specify relevant facts not previously presented to SBA through no fault or omission of the petitioning party; and

(7) Appeals primarily based upon issues or evidence that appellant had unreasonably failed to present to the SBA field office and there is no explanation for this failure. Failure to meet time limitations in making submissions to SBA field offices generally would not be a reasonable explanation.

Such summary dismissal by the Chairperson shall be final insofar as the pending procurement or sale is concerned. The Chairperson shall also refer size determination appeals dismissed solely by reason of untimeliness to the Board for a decision as regards eligibility for future procurements, sales, or other small business assistance. He shall not, however, refer to the Board untimely appeals from a product or service classification or size standard determination. The parties and other interested persons shall be promptly notified of the Chairperson's action and the basis thereof.

§ 121.12 Small business for paying reduced Patent fees under Title 35, U.S.C.

(a) Pursuant to Pub. L. 97–247, a small business concern for purposes of paying reduced fees under 35 U.S.C. 41 (a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

(b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street, N.W., Washington, D.C. 20416 [Attention: SBA Office of General Counsel]. The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error and the facts and arguments supporting the concern's claimed status as a small business concern under this section.

Dated: March 4, 1983.

James G. Sanders,

Administrator.

[FR Doc. 83-11794 Filed 5-5-83; 8:45 am]

BILLING CODE 8025-01-M

ADDITIONAL COMMENTS FOR THE HEARING RECORD OF OCTOBER 26, 1983

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HARRY A. INMAN
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JOHN L. OBERDORFER
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TIMOTHY A. CHORBA
RONALD H. BROWN
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JAMES B. CHRISTIAN, JR.
DAVID E. DUNN
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J. KIRK WADE
STUART M. PAPE
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RALPH G. STEINHARDT, III
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WRITER'S DIRECT DIAL
457-5436

October 25, 1983

The Honorable Parren J. Mitchell
Chairman
House Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

At the small business size standard hearings held on October 20, we were asked to identify dredging firms that are members of DISSC, the Dredging Industry Size Standard Committee. Attached is the list of nineteen small and seven "large" dredging firms responsive to that request. Each of the firms on the attached list has participated at least two, and sometimes as many as five, times with written comments in response to the SBA. In 1980, six of the small firms travelled to regional SBA hearings and testified in favor of lowering the dredging size standard, as recommended by the National Dredging Study that was undertaken at the request of Congress.

As I mentioned at the hearing, DISSC is an ad hoc group of firms that joined together in 1979 for the purpose of urging the Small Business Administration to reduce the dredging size standard (as advocated by independent Congressional and Corps of Engineers studies) to a level that would help the small firms in the industry. (The purpose clause from the Committee's bylaws is attached for your information.) As shown by the October 20 hearings and by public comments received by the SBA, the only segment of the industry not in favor of a lower size standard is a very small group of mid-sized firms that have dominated set-aside awards.

The Committee was established in 1979 to serve as a focal point for concerns of the large and small business dredging community with the manner in which the small business set-aside program was being administered in the dredging industry.

At the time the Committee was established, the formality of actual membership in the Committee was important. However, with the passage of time and with the increasing recognition of DISSC as a spokesman for a valid point of view concerning the small business program, the Committee has functioned less like a membership organization and more as a means of facilitating submission of views by a wide range of firms which are adversely affected by the manner in which the set-aside program is being administered for the dredging industry. Thus the list of member firms which we have attached should not be regarded as a definitive listing of the firms in the industry which support DISSC and its objectives. A comprehensive list of firms supporting those objectives would be much longer and would include virtually all companies in the dredging industry except those firms in the $5 million to $9.5 million gross revenue range which are presently realizing unjustifiable benefits from the program.

We have confirmed with some of the companies included on the attached list that they would prefer not to be subjected to possible harrassment by mid-sized firms in their region, due to their membership in DISSC. In any case, as pointed out above, membership in DISSC is not the critical issue. The important question is what each company's position is on the small business size standard. That position is clearly available in the record of the SBA's last two requests for public comment.

If there is anything further we can do to help to remedy the current size standard problem, please contact us. Over forty (40) dredging firms throughout the country are on record in support of a lower size standard; the vast majority of these firms are small and need the SBA's help. Thank you.

Sincerely yours,

Joe R. Reeder

Joe R. Reeder

STATEMENT OF IKE CARTER, JR., PRESIDENT AND OWNER OF ARKANSAS VALLEY DREDGING COMPANY, INC. OF BENTON, ARKANSAS TO COMMITTEE ON SMALL BUSINESS, U. S. HOUSE OF REPRESENTATIVES RELATIVE TO PROPOSED CHANGES TO SBA SIZE STANDARDS REGULATIONS.

My name is Ike Carter, Jr. I am President and majority stockholder of Arkansas Valley Dredging Company, Inc. My company ownes three dredges - the 18 inch dredge LITTLE ROCK, the 18-inch dredge DREDGE II, and the 24-inch dredge TULSA. We have been in the dredging business since 1965, doing essentially all of our dredging for the Corps of Engineers. Because of severe budgetary restraints over the last several years our average annual receipts have been in the $3-$5 million range although we are capable of doing $9-$12 million each year. Our work in the past has been on the Arkansas River for the Tulsa and Little Rock Districts of the Corps, on the White River for the Memphis District, on the Appalatchicola, Alabama and Warrior Rivers and the Gulf and Atlantic Coasts for the Mobile District, and the Little Tallahatchie River for the Vicksburg District. Obviously, we are a small business concern and, in fact, are a minority-owned business since I am one-fourth American Indian.

In July of this year I became aware of certain proposed rule changes appearing in the Federal Register of May 6, 1983 pertaining to amendment of the Small Business Administration (SBA) size standards regulations. I furnished the SBA my comments thereon on July 8, 1983.

For the information of this Committee and with the hope that I might say something that would convince this Committee of the gross inequity of SBA's proposed action and of the plight of this nation's small business dredgers today, I would like to reiterate and expand on my comments of July 8, 1983 to the SBA.

A review of the proposed regulations reveals various statements which are totally inconsistent with the recommended action as respects the dredging industry. These statements and my comments thereon are as follows:

On pages 20561, 20562 and 20565 of the above-cited Federal Register there appears the following statements:

> "Firms have been losing SBA eligibility due to inflation, and an inflation adjustment will help to remedy this."

and

> "Many of these commentors felt, however, that the size standards based on gross receipts should be reviewed for inflation to maintain real measures of size unaffected by price trends."

and

> "A similar approach applies to the nonmanufacturing industries. In these, however, an inflationary adjustment is made in an attempt to put the size standards on a real dollar equivalent to the time of the last general adjustment, usually 1975".

and

> "The technique for adjusting for inflation focuses on a single measure - the GNP deflator. * * *. The total change of 81 percent is then applied to those size standards last adjusted in 1975 to calculate the proposed revisions."

and

> "* * *, those size standards presently expressed in dollars, basically those for the nonmanufacturing industries, are proposed to be increased for inflation." (Underscoring supplied).

One would think, based on the foregoing quoted statements, that the same GNP deflator of 81 percent would be applied across the board to all categories of the construction business, including dredging. However, for some strange unexplained reason, such is not the case. Under Division C-Construction (on page 20569) there is shown a total of ten categories of construction contractors, the first nine being general construction and the tenth being "Dredging and Surface Cleaning Activities." On the first nine, the current standard for procurement is shown to be $12 million with a proposed increase of 81 percent to $21.5 million. However, on dredging the current standard is shown to be $9.5 million and the proposed standard to be $9.5 million - NO INCREASE AT ALL!!! No explanation - no justification - no pinpointing of this illogical and, I submit, improper action. At first blush, this might seem to be a typographical error - however, considering the concerted efforts of the large dredging companies to date to assure the continued use of the obsolete 1975 size standards or even to reduce them, one wonders whose interests the SBA is looking out after. It certainly does not appear to be those of the small business dredging companies.

The dredging industry is much more petroleum oriented than the other construction categories. One of our dredges and its attendant plant will use from 1,000 to 2,000 gallons of diesel oil in a 24-hour day (2-12 hour shifts). Is the SBA not aware of the dramatic increases in the price of oil since 1975? If they are not, everyone else in the country is. Is the SBA not aware of the very substantial increases in wages since 1975? If not, every employer is. Is the SBA not aware of the extraordinary increases in the cost of dredging capital plant, equipment and replacement parts over the last eight years? Those of us in the dredging business are painfully aware of this.

One other thing I would like to point out. A small business dredger who did $5.5 million business in 1975 and the same volume today would no longer be small business, considering the 81 percent inflation rate to date and the current and proposed size standard. If the proposed rules are adopted I suspect that a number of us either are or will soon be classified as large business and will no longer be able to compete under the small business program. Likewise there is no way we could long stay in business competing against the large dredgers with their much greater resources. The resultant control by large business dredgers and the lack of small business competition can only cause higher dredging costs to the Government and will also result in a reduced mobilization base in time of national defense or national emergency.

I urge this committee to take such action as may be necessary to assure that the small business dredging industry is treated fairly and equitably and on the same basis as the other categories of construction contractors and that the dredging size standard be increased by a minimum of 81 percent to $17.2 million.

Ike Carter Jr.

IKE CARTER, JR., President
Arkansas Valley Dredging Company, Inc.
P. O. Box 548
Benton, Arkansas 72015

Business Executives for Equitable Procurement
SUITE 520
1629 K STREET
WASHINGTON, D.C. 20006

202 - 293 - 5496

STATEMENT
Of
WALLACE FORMAN

Before The

SUBCOMMITTEE ON SBA AND SBIC AUTHORITY, MINORITY ENTERPRISE
AND GENERAL SMALL BUSINESS PROBLEMS

U.S. HOUSE OF REPRESENTATIVES

October 26, 1983

Good Morning:

My name is Wallace Forman. I am Chairman of the Board of Gibralter Industries, Inc. of Brooklyn, New York. Gibralter is a producer of textiles and textile products, primarily for the Department of Defense (DoD).

I appreciate the opportunity that the subcommittee is providing me today to speak of problems which beset my company, the industry of which it is a part, and other industries in which small business set-asides predominate.

Some 30 years ago, upon my graduation from college, I joined with my father in the management of Gibralter Industries. It was my great good fortune to be able to learn the business from my father and later to succeed him as its chief executive.

When the Small Business Administration (SBA) began administering the congressionally mandated procurement set-aside program, a small but helpful percentage of government procurements were reserved for bidding exclusively by small businesses. However, in the textile and textile products industry, the percentage of procurements set aside for small business became increasingly larger. With each increase in the number of procurements which were set-aside, the necessity for companies within the industry to maintain their employment levels below that defining small business became more critical. Normal patterns of corporate growth began to be altered and employable persons remained unemployed.

The SBA established a size standard for our industry of 500 employees, even though our industry is extremely labor intensive and the DoD procurements on which we bid are both large and have tight delivery schedules. As the percentage of procurements set aside became increasingly larger it was not economically feasible to grow beyond the small business size standard because of the insufficiency of procurements available to a business which was other than small. Neither our industry or our federal customers were, or are, able to benefit from economies of scale.

The set-aside program, which was conceived as a method for providing contractual opportunities for small businesses in order to assist them to grow and become more efficient contributors to the national economy, has now become an instrument which stunts normal business growth and denies opportunity for success to the companies in our industry and selected others.

Has the set-aside program provided growth opportunities in industries other than those impacted by large setaside percentages? It would appear not. As the Congress and SBA pushed for greater percentages of contracts to be awarded to small business by the federal procurement agencies, those agencies responded. The aggregate percentage of contracts awarded to small business rose, but in general, the product lines for which contracts were awarded remained the same. Small business has been permitted little penetration into the high tech, high growth potential product areas. Rather, the increase in the aggregate percentage of small business federal contract awards has been achieved by steadily increasing awards to small businesses in the textile, base services and other product lines which DoD deems "suitable" for small business.

I stated previously that the SBA size standard for our industry is such as to predicate against achieving truly efficient operations. The high percentage set-aside in our product lines, which now approximates 95 percent, denies us the opportunity to grow by bidding on procurements which are unreserved for small business. Therefore, companies in our industry have very limited options. They may artificially alter their growth and employment patterns and remain eligible for small business set-asides, they may withdraw from the industry in which they have great experience and enter a new industry with the concomitant hazards and loss of efficiency, or they can close their doors.

The incongruity of the dual effect of the SBA size standard and the high percentage of procurements set-aside for small business in our product lines is highlighted by the impact occasioned on another SBA program.

Several companies in our industry are "Section 8(a)" companies. SBA's 8(a) program, as you know, is a program which seeks to assist companies owned by socially and economically disadvantaged persons to establish a business, learn, grow, become viable and to enter into and succeed in the mainstream of commerce. In our industry however, they are permitted to grow to only a certain level, and not one which signifies mainstream success. The 8(a) companies in our industry are bound by the twin forces of size standard and high percentage set-asides in our product lines as are we all. They are thereby constrained in their growth patterns. However, the impact is greater on them since, by their nature of companies needing specialized assistance, they are generally less efficient than the more established companies. In other words, these companies require more employee/hours to produce a unit of product than do the more established companies. The 8(a) companies face a double penalty for growth. If they exceed the number of employees permitted under the size standard they not only lose their small business status, but also their 8(a) status and the special services provided thereunder. The size standard and high set-aside percentage of the SBA set-aside program therefore denies them the very opportunity to grow and prosper that the SBA's 8(a) program promises.

Through the years my company, as have others, has suffered through the ever changing small business set-aside program. I have raised the problems which I am speaking of today on many occasions with officials of both SBA and DoD, but to no avail. I was led to believe that my company was the only one which was questioning this practice, even though others in my industry had spoken to me of it.

Then in November of 1982 my company was featured in a Wall Street Journal article as an exemplar of an industry being adversely impacted by a law which had been designed to assist it. As a result of this article, I was contacted by a number of business persons, from my industry and from others, from all parts of the United States. I was told that their companies, contrary to what I had been led to believe, were experiencing the same adverse impact, and from the same source, as was mine. Still I hesitated to act, due to my apprehension that speaking out could be hazardous to my company.

Then, a short time ago, I had the opportunity to speak of my problem to Representative Andy Ireland of Florida. He understood the problem, was sympathetic and encouraged me to take action to address the problem.

I felt that a single voice had less chance of being heard than did many, so I contacted other members of my industry and organized Business Executives for Equitable Procurement. Businesses in other industries which are similarly affected are now contacting us for information about joining this coalition. It is our intent that this coalition should not be a single issue group, but one which will serve the interests of both the public and private sectors by pointing out inequitable government procurement practices wherever and whenever they occur.

With the support of the other members of the coalition and the encouragement of Mr. Ireland, I appear before you here today.

I feel sure that officials of good faith in both SBA and DoD feel that they are faithfully carrying out the will of the Congress in their administration of the small business set-aside program. If questioned, they would undoubtedly point with pride to the aggregate number of procurement contracts awarded to small business. However, as I hope that I have shown here today, the Congress is presented with a distorted and misleading representation of the facts because the representative facts for each industry are submerged in the presentation of aggregated data. The set-aside program is supposed to result in a fair percentage of government procurements being reserved for small businesses. In our product area is a 95 percent set-aside a fair percentage? In other product areas is a 0 percent setaside a fair percentage?

My company manufactures highly specialized textiles and textile products. Among the products we make are: chemical protective suits, fire retardant clothing, ballistic ("flak") vests and combat helmets made of a revolutionary new textile product. Consequently, we cannot turn from our government customers and begin selling these items commercially.

Because of the size standard and the 95% set-aside in our product lines companies in our industry are frozen in position.

Companies in our industry cannot be acquired, cannot merge, cannot acquire other companies, cannot expand into new product areas and cannot grow. To do any of these things is to pierce the 500 employee limit. Is that what Congress had in mind when it gave SBA the right to mandate Small Business Set-Asides?

Since SBA has the right to change its size standards, every company which depends upon Small Business Set-Asides is at risk. The size standards can be changed so as to prevent a company from bidding in its product area. Did Congress intend SBA to have the power of life and death over companies?

The Set-Aside Program greatly reduces the value of companies in our industry, since our company cannot grow and cannot be used for growth by other companies. Instead of helping small business to "graduate" to the ranks of large business, therefore, our Set-Aside Program has effectively removed the possibility for growth and expansion in our industry. Is that an appropriate, fair or intelligent policy for the government to pursue?

Because of the very low employee ceiling which applies to our industry, and because of the stringency of the affiliation rules, almost any company can be construed to be affiliated with any other company which it may then be using as a subcontractor.

Every significant manufacturer in our field, therefore, lives in constant dread of size protests and the danger of being determined "other than small" by SBA, resulting in the loss of all opportunity to bid upon set-asides until the decision can be reversed. When you realize that 95% of our product area is set aside for small business, you will realize that a negative determination by SBA is a sentence of death. Should legitimate suppliers to government agencies have to live under such a threat?

In conclusion may I say that the small business set-aside program has grown to dominate our industry. Fifteen yeras ago, the percentage set-aside in our product lines was approximately 15-20 percent. That number has now grown to approximately 95 percent. The meaning of this percentage is unmistakable; if you are not classified a small business — close your doors. Such a situation is unfair to:

- the businesses and their employees in industries where small business set-asides are to high
- the businesses and their employees in industries where small business set-asides are few or nonexistent
- the national economy, and
- the defense mobilization industrial base

The existing set-aside system in our industry, and in others, has badly distorted the national economy in certain areas; and data which would reveal such distortion has been presented in such a way that the Congress has been misled.

Our economy is beset by business competition from foreign shores. In those countries the government provides extraordinary assistance to their businesses to encourage the growth of their economy. In the instance I have presented here today, our government is working in the opposite direction. If we are to employ our people, enhance our economy and lower the current staggering trade deficit, our government must not work at cross purposes with the private sector, by design or by inadvertence.

CONGRESS
of the
United States of America

Andy Jacobs

November 2, 1983

STATEMENT SUBMITTED BY THE HONORABLE ANDREW JACOBS, JR. TO THE SUBCOMMITTEE ON SMALL BUSINESS

Mr. Chairman, the dredging industry has been singled out within the construction division for what, in effect, is a continued diminution in the definition of small business status. All other industries within the construction division enjoy recommendation for 80% increases.

It strikes me that this discrimination is not fair. And I hope the Committee with see fit to deal evenhandedly with all elements of the construction division.

I thank the Committee for its kind attention.

West Coast Dredgers in Support of $5million Standard

Aqua Dredging	Vallejo, CA
Bartee Brothers Dredging	Antioch, CA
California Dredging	Martinez, CA
Delta Dredging	Pinole, CA
Edwards, Al Dredging	Sacramento, CA
Global Marine	Concord, CA
Hydraulic Dredging	Richmond, CA
Jackson Marine	Vancouver, WA
McAmis Industries	Chico, CA
Marin Dock and Dredge	Sausalito, CA
Nehalem River Dredging	Nehalem, OR
Newport Dredging	Portland, OR
Palmberg Construction	Warrenton, OR
Portable Hydraulic Dredging	Portland, OR
Robertson, Leon	Sacramento, CA
Sandau, Don	Salem, OR
Watson, R & D	Watsonville, CA

NATIONAL SOLID WASTES MANAGEMENT ASSN.
NSWMA

National Solid Wastes Management Association

[illegible]

October 21, 1983

Hon. Parren Mitchell
Chairman
House Small Business Committee
2367 Rayburn House Office Building
Washington, D.C. 20515

Dear Rep. Mitchell:

We would appreciate your including this letter as part of the hearing record on the SBA size standards.

NSWMA represents the waste service industry, which is predominantly one of small businesses. Our members include those small refuse collection firms who have done or would like to do business with the federal government. Over 90% of all federal refuse collection contracts are set aside for small businesses, which makes the size standard a crucial issue for these firms.

Since mid-1981 we have been trying to get SBA to increase the size standard for our industry, both through supporting a general inflation update for all, and in making a separate case for our industry. The increasingly stringent environmental regulation of disposal facilities has caused these costs, a pass-through cost for refuse haulers to increase far beyond inflation as much as 300%--in the past five years. These small firms are thus rapidly outgrowing the $3.5 million standard.

We recommended to SBA that $6 million would be an appropriate standard to account for inflated costs. The agency agreed and proposed this level in its May 6 proposal. We were among the 70% of respondents that approved of the proposed rulemaking despite the fact that the standard it would set was already one year out of date.

We understand now that by the time the final size standards are promulgated we may be well into 1984, almost two years from the time we documented an appropriate 1982 size standard level for our industry.

We also understand that most of the reason for the delay is an attempt to reconcile differences in the dredging, construction, oil wholesale and architect/engineer industries.

However, we see no reason why SBA cannot expedite promulgation of the non-controversial size standards while working out a consensus on the others. The rules could be published in "interim final" form so they could be quickly supplemented.

- Institute of Waste Technology
  - *Waste Haulers Council*
  - *Sanitary Landfill Council*
  - *Liquid Waste and Sludge Transporters Council*
- Waste Equipment Manufacturers Institute
- Institute of Waste Equipment Distributors
- Institute of Chemical Waste Management
- Institute of Resource Recovery
- International Council of Waste Service Industries

Having agonized with SBA over the setting of our own standard, we certainly can understand the Committee's concern about equitable standards for those few unique industries addressed in the October Committee hearings.

But continued delay in issuing final revised standards will cause small businesses to lose the opportunity to bid on refuse contracts, including those on which they are the incumbent, even though they will again be defined as "small" once the rules are final. This surely is not equitable, either.

We urge you to recommend to the SBA that they promulgate non-controversial size standards immediately while continuing to work out a consensus for those few problem industries discussed in the May 6 proposal.

Sincerely,

Arleen Shulman
Federal Affairs Manager

AS/cmb

STATEMENT OF

CALIFORNIA SMALL BUSINESS SHIP REPAIR ASSOCIATION

BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON SBA AND SBIC AUTHORITY,
MINORITY ENTERPRISE, AND GENERAL SMALL BUSINESS PROBLEMS.

Washington, D.C.
October 24, 1983

Mr. Chairman, we appreciate the opportunity to express the views of the California Small Business Ship-Repair Association (SBSRA) on the proposed Small Business Size Standards for the ship repair industry.

The California Small Business Ship Repair Association consists of approximately 60 small concerns in the San Francisco and San Diego area that are involved in ship repair work. Our capabilities cover the entire gamut of the ship repair and overhaul industry. Many of our members are specialized in the repair of selective shipboard systems (pumps, turbines, etc.). A few members, whose employees range between 500 and 1000, have performed whole complex ship overhauls, conversions, and major repairs. The market competitors of these "whole ship" members are generally large business concerns having several thousand employees and substantial technical and financial resources, such as Todd Shipyards and National Steel & Shipbuilding Company.

The Association strongly supports the current small business size standard of 1000 employees for the ship repair industry. The latest Small Business Administration (SBA) proposed size standards, as published in the Federal Register/ Volume 48 No. 89 dated May 6, 1983 also proposed the retention of the 1000 size standard for this industry.

We are aware, however, that many of the giant ship repair companies have petitioned the SBA to reduce the small business size criterion to 500 employees. Their primary objective, and those of others supporting the 500 employee rule, is to eliminate small business set-asides for whole complex ship overhauls on the West Coast and in other areas of the United States. If this "500 employee" change were enacted, the set-asides that could be made would generally involve repair and overhaul of specialized shipboard equipment.

The complex and costly management and technical proposals required by the Navy for major ship repair and overhaul necessitate the establishment of a ship repair organization having more than 500 support personnel. The Navy's evaluation factors for contract award generally stress management capability, technical approach, resource availability, experience, and cost. A firm having less than 500 employees is under a distinct disadvantage in any competition subject to these criteria. Many of these contracts for major ship overhaul are placed on a cost plus fixed fee basis. Hence estimated price (or low offer) is not the primary or even major controling factor in the selection process. Since there are subjective elements inherent in the other evaluation factors, there exists, in the absence of a small business set-aside, the possibility of a bias unjustifiably favoring the larger companies. In fact, there have been several instances where under unrestricted competition, large firms whose estimated costs significantly exceeded a competent small business offeror were selected for contract award. Unfortunately, in negotiated procurements of this kind, where price is not the controling factor, certificate of competency procedures cannot be invoked as a means of providing equitable consideration for small business offerors.

The retention of the 1000 employee size standard for ship repair is even more valid today considering the action taken by the Navy Sea Systems Command on May 27, 1983 when it tightened the requirements which a firm must meet to be eligible to obtain a ship repair contract. These are: (1) the firm must accomplish at least 55% of the work with its own production and personnel resources, i.e., not more than 45 percent can be subcontracted out; (2) must have an existing organizational capability for handling efficiently such functions as materiel control, financial control, quality control and the capability to manage subcontractors; and (3) must have continued access to a drydock. All of these qualifications bespeak the need for more, not less employees, tp perform all of these functions. Therefore, the Association recommends strongly that the size standard for ship repair should remain at the 1000 employee level.

A recent detailed Navy statistical study also supports the need for the continuation of the 1000 employee size standard. Under the current 1000 employee size standard the small business share of total awards for Navy overhaul and repair work declined from 43.3% of the dollar value in FY 1981 to 29.1% in FY 1982. There was a similar decline in the percentage of total awards placed through the use of small business set-asides from 11.9% in FY 1981 to 9.1% in FY 1982.

Even though there was a greater volume of procurement for overhaul and repair work in FY 1982, the dollar value of small business set-asides was approximately $138 million in FY 1982 as compared to $143 million in FY 1981. If the 500 small business size criterion had been applicable in Fy 1982, the small business share of total Navy ship repair and overhaul procurement would have been reduced from 29.1% to 12.4%.

Perhaps the most cogent argument against the reduction of the current 1000 employee size standard to 500 employees is the possible long term deleterious effect such a size standard would have on the industrial base. As mentioned previously, ship overhaul and repair firms now employing under 1000 employees are at a distinct disadvantage in unrestricted competition for major ship repair and overhaul work given the complex and costly management and technical proposal required by the Navy. The incentive for companies with less than 500 employees to expand their work force in order to compete for more complex work would be removed since their competitors would be the industry giants who employ several thousand people. The result would be a serious erosion of the ship repair industrial base. This problem would be magnified in the event of mobilization since the large businesses now performing two thirds of all ship overhaul and repair work may have to turn their attention to shipbuilding.

nAWGa

NATIONAL-AMERICAN WHOLESALE GROCERS' ASSOCIATION

DATE: OCTOBER 26, 1983

STATEMENT OF: DENIS R. ZEGAR
VICE PRESIDENT, GOVERNMENT SERVICES

BEFORE THE: HOUSE COMMITTEE ON SMALL BUSINESS' SUBCOMMITTEE ON SBA AND SBIC AUTHORITY, MINORITY ENTERPRISE AND GENERAL SMALL BUSINESS PROBLEMS

SUBJECT: SBA PROPOSED SIZE STANDARDS RULE

201 Park Washington Court, Falls Church, VA 22046 — (703) 532-9400

nAWGa

COMMENTS

SBA Size Standards 13 CFR Part 121

I am Denis R. Zegar, Vice President of Government Services for the National-American Wholesale Grocers' Association. I am submitting this statement before this Subcommittee which is currently reviewing the SBA's proposed "Size Standard" rule.

NAWGA is a non-profit trade association of grocery distribution companies that provides programs on behalf of its nearly 400 wholesale grocers. NAWGA members operate nearly 1000 distribution centers nationwide, serving independent grocery stores and foodservice establishments throughout the nation. NAWGA members' annual sales volume approaches $50 billion, accounting for roughly one-third of the nation's grocery supply distributed through such centers. In addition, NAWGA members employ approximately 250,000 people nationwide. NAWGA's foodservice division, the International Foodservice Distributors' Association (IFDA), represents 248 member firms who sell annually nearly $10 billion in food and related products to the institutional, away-from-home foodservice market.

The proposed SBA standard increases gross receipts from $22 million to $35 million and eliminates the 500 employee standard for the wholesale grocery industry.

The wholesale food industry is unique among other lines of business. It may very well be the most competitive industry in the nation, which is substantiated by the fact that after-tax profits are less than 1 percent. A $10 million manufacturer is typically more profitable than a $100 million grocery wholesaler. In our industry, economies of scale aren't functional until a company reaches $50 million in gross sales.

Because of the uniqueness of the wholesale food industry as noted above, a general, full-line wholesale grocer would find it nearly impossible to survive the extremely competitive environment in which he must operate with sales of less than $50 million. This observation is empirically well founded through NAWGA's Annual Financial Comparison Survey as well as surveys by independent, national accounting firms.

Although a company with gross receipts in excess of $50-$100 million appears large, all of our members in this range are family-owned. A size standard of $35 million would eliminate any possibility of smaller, family-owned businesses from participating in procurement set-aside programs. It is important because our members supply a vast majority of food products to military installations, prisons, schools, etc. A $35 million limitation would severely limit small business participation in these procurement programs and would eventually effect the costs of goods sold to the government.

It is also important to fully understand the type of companies that probably make up SIC 5141. Nowhere listed under wholesale is there a distinction made between wholesale food distributor-institutional and wholesale food distributor-retail. Through our IFDA Division, NAWGA also represents the institutional food distributor. IFDA members and institutional distributors, in general, are overwhelmingly companies with less than $35 million in gross receipts. However, IFDA members' mode of business is entirely different from the mode and type of business of NAWGA members. To combine both is to confuse two different lines of business and do an injustice to each. The combination of institutional and retail wholesalers probably accounts for SBA's large number of firms identified under SIC 5141. Our information, with respect to size and actual numbers of companies in the wholesale industry, is compiled through member information regarding local competitors as well as from manufacturer suppliers. The quality of our data and information with respect to the wholesale grocery industry is probably more accurate than the self-report data supplied by the Census Bureau, particularly, when an industry profile is needed.

It is NAWGA's contention that SBA needs to reassess its proposed size standard reflecting the general characteristics of the wholesale grocery industry. The $35 million gross receipt is fine for institutional food distributors, but would be disasterous for family-owned, wholesale grocers selling retail. It is our contention that the current employee size standard is a better and more reasonable approach. This conclusion is predicated on the following survey results of NAWGA members conducted in the Summer of 1983.

1. The average number of employees for companies with gross sales of less than $50-million is approximately 105.

2. The average number of employees for companies with gross sales between $50-75-million is approximately 170.

3. The average number of employees for companies with gross sales between $75-100-million is 250.

4. Region is an important factor in employee variation. In states such as Texas and California where a company must cover a great deal of territory, the number of employees increases significantly. The same hold true for companies that service entire states where their are few wholesalers. For example, one of our members in Tennessee employs 275 employees but has gross receipts of only $43-million.

As you can see, the grocery industry is labor intensive in which gross receipts does not necessarily determine number of employees as the case of many industries. However, an interesting statistic is that our members average approximately $250 in sales per employee. This figure is approximately 30% higher than comparable employee-to-sales ratios of manufacturers or retailers. The reason is quite simple--after-tax profits of less than one-percent mandate higher employee sales.

Therefore, a reasonable employee size standard would be 250. This would include most companies with gross sales of $100-million or less (the average NAWGA member's sales is $125-million) and would insure a competitive market place that small businesses can and will compete.

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GARY L BUFFINGTON Executive Vice President
FRANK R RIZZO General Manager

November 7, 1983

Congressman Parren Mitchell
Chairman, House Small Business
Committee
Congress of the United States
House of Representatives
Washington, DC 20515

Dear Congressman Mitchell:

I understand that the House Small Business Committee has just concluded hearings on proposed SBA Size Standards. I am writing in support of the position of one of our member companies to the effect that the standard proposed for SIC Code 5085, industrial supplies, of $15 million is inappropriate. We make this statement due to the fact that several industries closely allied to ours, including SIC Codes 5031, 5051, 5063, 5081, 5113, 5196 and others have had a standard of $25-$35 million annual sales applied. This appears to be discrimination among similar industries. It is compounded in our case as many of our member companies are involved in industrial supplies with the proposed $15 million standard and other commodity lines with the $25-$35 million standard.

I have enclosed several letters from Mr. T. M. Whittemore, of Taylor-Parker Company making a case for an increase in the standard for SIC 5085 to $25 million.

I would request that this letter and Mr. Whittemore's letters be included as a part of the hearing record.

If there is anything specific which I can provide you to support the case for our industries' Size Standard being set at $25 million, please let me know.

I appreciate the opportunity to express my views on this matter.

Sincerely,

Gary Buffington

Gary L. Buffington
Executive Vice President

June 10, 1983

Mr. Andrew W. Canellas, Director
Size Standards Staff
Small Business Administration
1441 L Street, NW
Washington, D.C. 20416

Dear Mr. Cannellas:

We note with dismay the fifth notice of SBA proposed rules to revise small business size standards.

This company must object to the discrepancies outlined on page 20577 of Federal Register (Vol. 48, No. 89, dated 6 May 83) among the various SIC codes comprising Group 50 - Wholesale Trade-Durable. We do not understand why you proposed standards of $15 million annual volume for SIC 5085 (Industrial Supplies) yet $25 to $35 million annual volume for SIC codes 5031 (Lumber), 5051 (Metal Service Centers), 5063 (Electrical Equipment), 5081 (Commercial Machines), 5113 (Industrial Paper), 5196 (Paints and Supplies) to mention just a few.

We would like to point out that we stock and sell metal, electrical equipment, commercial equipment, paper, and paints as a general industrial house (5085). Our line billings and average invoice amounts are undoubtedly smaller than those of the other SIC numbers noted, but we are not materially that different.

We feel you should revise the proposed size standard for SIC 5085 upward from $15 million to at least $25 million. We note that you have 30 SIC categories at $25 million or higher out of a total of 61 in Group 50.

If you do not equalize the standards, you place an undue burden on those of us in SIC 5085 in that we will be excluded from "Set-Asides" in competitive bidding against other similar wholesalers in metal, paint, electrical, and paper items.

By copy we request that Senators Trible or Warner and/or Congressman Whitehurst please coordinate a follow-up request for an explanation of the rationale of the differences noted above and the necessary action to bring about an equalization by increasing the SIC 5085 limitation.

Yours very truly,

T.M. Whittemore

NOTE: We regret your inability to provide assistance to the industry on this matter.

RECEIVED
JUL 13 1983

July 15, 1983

U.S. Small Business Administration
Washington, D.C. 20416

Attention: Mr. Andrew A. Canellas
Director, Size Standards Staff

Dear Mr. Canellas:

This will respond to your form response dated 15 June 83 in reply to my letter questioning the variation in size standards among similar wholesale businesses.

I regret that you found it necessary to write my Congressman that "Mr. Whittemore seems to be confused over the application of size standards". I am not confused on this matter at all; you people have come up with some arbitrary size standards that I doubt very much you can justify. If you could justify them you would not have addressed a form questionnaire to me asking some rather simple questions, which questions you have undoubtedly gone into before in your own in-office determination of size standards.

We will answer the questions anyway. We employ 132 people. Our sales volume is around $18 million a year. Other factors particular to industrial supply wholesaling that would justify a higher standard would be those same factors which you apply to the justification of a higher standard on metal service centers, paint wholesalers, electrical equipment wholesalers, paper wholesalers, and others.

The tone of your response to the Congressman and in your letter to me indicates that the burden of proof is on me. Rather, Mr. Canellas, I think the burden of proof is on you to justify your size standards. How did you determine them? What factors were used and what weight was given to various factors that produced the ultimate decision on the figures that relate to the size standards?

The writer rather suspects that certain industrial groups have perhaps employed a little lobbying in this matter and certain other industrial groups, including 5085 SIC code probably have not done the necessary lobbying. Correspondence between the writer and NAW and NIDA/SIDA indicates the latter.

This company is certainly larger than any paint wholesaler in the Tidewater area (SIC 5196). Yet you assign a lower standard for us than you do for the paint wholesalers. It does not make sense to me. So I would like very much for you to explain how you arrived at it.

We have made effort to digest the various paragraphs as set forth in the Federal Register but can find nothing of a technical nature relating to the different size standards. Rather, you seem to have employed thousands of words in a sort of repetitive commentary. On page 20562 of the Register, in a paragraph on Methodology for Setting Size Standards, you dwell on nothing other than the GNP Deflator. Your three paragraphs are just a discussion; they are not methodology. We view the other paragraphs in a similar manner.

Please let me hear from you.

Yours very truly,

TAYLOR-PARKER COMPANY, INC.

T.M. Whittemore